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ADJUSTMENT OF PROPERTY LOSSES

PRENTISS B. REED

*Past President, National Association of
Independent Insurance Adjusters*

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ADJUSTMENT OF PROPERTY LOSSES

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The Author

Born, January 20, 1882, Atlanta, Georgia. With Phenix Insurance Company of Brooklyn and Imperial (Fire) Insurance Company of London, Atlanta, 1896-1906. First adjusting experience with Edwin G. Seibels; The Home Insurance Company; the Southern Adjustment Bureau; and as independent adjuster; Alabama, 1906-1914. Manager, Birmingham Branch, Southern Adjustment Bureau, 1914-1918. Senior City Staff Adjuster, The Home Insurance Company, New York, 1918-1921. General Adjuster Phoenix Assurance Company, Ltd., 1921-1929; Assistant Manager, 1929-1932. With Wagner and Glidden, Inc., and Toplis and Harding, Inc., adjusters, 1932-1935. Independent adjuster, since 1935. Has conducted courses in adjusting at Columbia University and the School of Insurance of the Insurance Society of N.Y. First President, New York Association of Independent Insurance Adjusters, 1940-1945. President, National Association of Independent Adjusters, 1947-1948. Author, "Fire Insurance Underwriting." Now President, Prentiss B. Reed & Co., Inc., Independent Adjusters.

Preface

The first edition of this book, "Adjustment of Fire Losses," was published in 1929. Since then, the number of structures and articles of personal property has greatly increased, with a parallel increase in the number of property losses due to fire and other perils. A higher percentage of all property is now covered by insurance, policy conditions are less restrictive, and more perils are insured against. During the last ten years, insurance claims for losses due to perils other than fire have increased more rapidly than those for fire losses.

In this book I have tried to bring up to date all that was presented in "Adjustment of Fire Losses," and in addition, to cover accepted practice in handling losses caused by perils other than fire.

Ocean-marine losses are not considered. The maritime world is controlled by international rather than American conditions and will probably continue to go its own way.

Except for the chapter on Principles, this book, like its predecessor, is a manual on how the adjuster should proceed according to the terms of the contract of insurance, how he should treat with policyholders and producers, and how he should handle the various problems presented by the property or other subject matter of the insurance and by the circumstances attending the individual loss and claim.

Simple situations ordinarily encountered by the novice are first discussed, then the complications most frequently encountered, and finally the difficulties that tax the abilities of veterans.

My debt to the persons who have aided me with information, advice, and encouragement during the seven years that I have worked on the revision is great.

Officials of the National Board of Fire Underwriters, the New York Board of Fire Underwriters, and the Mutual Loss Research Bureau gave me help, as did the managements and personnel of the General Adjustment Bureau, the Western Adjustment and Inspection Company, the Underwriters Adjusting Company, the Underwriters Salvage Company of New York, and the Underwriters Salvage Company of Chicago. Many members of the Loss Executives Association aided me with criticism.

Members of the National Association of Independent Insurance Adjusters and of the various state associations answered a great number of

queries as to what is done away from New York. Agents, brokers, and public adjusters have contributed information. The builders, engineers, experts, and accountants on whom adjusters rely have helped.

If I tried to list names, I would overrun space limitations and also forget many that ought to be mentioned.

PRENTISS B. REED

NEW YORK, N.Y.

FEBRUARY, 1953

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Introduction

Payments by insurers to holders of policies covering property are ordinarily made in amounts agreed upon after investigation of the circumstances attending the loss and after negotiations between insurer and policyholder as to the amount to be paid. The work of investigating and negotiating is termed *adjusting*.

The Insurance Contract. The insurance contract set forth in present-day policies covering property is a conditional agreement to indemnify the insured for direct loss or damage to described property caused by the peril or perils insured against. Though the various policies differ in their language and arrangement, they all contain similar stipulations, which provide, among other things, that some kinds of property are uninsurable, that other kinds are excepted unless specifically included, that certain perils are not included, that under some circumstances the policies shall be void, and that under others coverage shall be suspended. Liability for loss is limited, if there is other insurance, to the proportion which the amount of the policy bears to all insurance covering the property.

The stipulations in the several standard fire policies had taken various forms prior to 1886, when the State of New York adopted a standard policy. The latest revisions are found in the present New York Standard Fire Policy, which went into effect in 1943, and the similar policies subsequently adopted by other states.

The insurance contracts in the tornado, sprinkler-leakage, riot, civil commotion and explosion, water-damage, hail, and other policies, are similar to the fire-insurance contract, and many of the stipulations and conditions in such policies are the same as those in standard fire policies. An Extended Coverage Endorsement attached to a fire-insurance policy produces a contract generally insuring against the perils of fire, lightning,

windstorm, hail, explosion, riot and civil commotion, aircraft and motor vehicles, and smoke, and in many cases also against sprinkler leakage.

There has recently been approved for use with the Extended Coverage Endorsement, but limited to private dwellings or their contents, an additional extended coverage endorsement, subject to a deductible of \$50, adding the perils of water damage from plumbing and heating systems, rupture or bursting of steam or hot-water heating systems, vandalism and malicious mischief, vehicles owned or operated by the insured or by any tenant of the described premises, glass breakage, ice, snow and freezing, fall of trees, and collapse.

The insurance contracts in inland-marine policies generally insure against all perils included in the fire policy and the extended coverage endorsements, and also other named perils, such as theft, flood, water damage, and transportation. They may, however, be written to insure against all risks, providing indemnity in any contingency except such as may be specifically excluded.

The insurance contracts in comprehensive automobile policies make them practically all-risk policies including or excepting the peril of collision, as the case may be.

Subject Matter. The property, the right, or the liability covered by the policy is the *subject matter* of the contract. Hereafter, the word "property" will be used to mean any kind of subject matter, unless otherwise noted.

Insurable Interest. Any person, firm, or corporation who or which would suffer an immediate or future financial loss as a result of the loss, destruction, or damage of a specific piece of property, has an insurable interest in the property. He, they, or it may, therefore, effect insurance covering the property and, in case of its loss or damage, collect for all or part of either, but for no more than the value of his, their, or its interest.

Loss and Adjustment. In fire, inland-marine, and some casualty policies, there are requirements that the insured give notice of loss and make claim. On receiving notice, the insurer generally inquires into the circumstances attending the occurrence of the loss and makes investigations as to the propriety of the claim. If the insurer finds that it is liable, it commences negotiations with the claimant in order to determine amount of loss sustained by the insured and the proportion of that loss for which the insurer is liable under the terms of the policy. When these negotiations

result in an agreement fixing the amount, the insured and the insurer are said to have made an *adjustment*.

An adjustment should be an accurate or equitable determination of the amount that the insured is entitled to receive under his policy. To make such a determination the insurer and the insured must fix the amount of loss or damage to the property and, in many cases, the proportion that is collectible under the policy. The amount of loss or damage is ordinarily fixed by agreement. In case of disagreement it may be fixed by *appraisal*.

The entire amount of the loss or damage to the property may be collectible but, in losses involving the insurance of interests less extensive than ownership, or in which average, or coinsurance, or other provisions in the policy limit the insurer's liability, only a part of the loss or damage will be collectible, and that part must be computed according to the extent of the ownership, or the policy provisions.

If more than one policy covers the loss, the amount collectible under each must be determined.

Parties and Their Representatives. In making an adjustment the insured conducts negotiations and performs the duties that lead up to the completed adjustment, in person or through a representative. In the larger cities the insured is often represented by a *broker* or a *public adjuster*. In other localities a *local agent* at times represents him.

The insurer's representative may be an agent or an employee. In dealing with a serious loss the insurer generally selects as its representative a person experienced in making adjustments, known as an *adjuster*.

Three General Classes of Losses. Losses may be grouped into three general classes according to the kind of property or interest covered: (1) building and structures, (2) personal property, and (3) rights of possession or use.

Personal property, from the standpoint of the adjuster, falls into two groups: (1) furniture, fixtures, equipment, and other articles that are being used and are not on sale in the ordinary channels of trade and (2) merchandise, that is, an article or articles offered for sale by a producer, manufacturer, merchant, or shopkeeper.

Rights of possession or use include those described in policies covering *rents* or *rental value*, *business interruption* or *use and occupancy*, or *leasehold interests*.

Regardless of size or complexity, the same general line of action is followed in adjusting all losses of the same class. When dealing with property

that has not been lost, destroyed, or damaged too badly to be identified, the adjuster seeks to determine by means of an estimate, inventory, or statement, which he will check against the property itself, what was the value of the property immediately preceding the fire, and what amount of loss or damage it has suffered. When, however, the property has been lost, destroyed, or damaged beyond possibility of identification, the adjuster tries to determine its sound value, that is, its value before it was lost, destroyed, or damaged, either by making an examination of records covering its purchase or its existence, or by developing pertinent information from witnesses competent to give details as to its acquisition, condition, and prospects.

The Task of the Adjuster. The adjuster is the agent of the insurer for the purpose of adjusting a loss. He acts for the insurer and is ordinarily empowered to make agreements as to value and loss on its behalf. The stipulations of the policy contract largely determine what facts he should establish and what agreements he may make with the insured. Agreements between insured and adjuster covering matters within the scope of the adjuster's authority are binding upon the insurer.

The stipulations of the policy under which a loss has been reported largely determine what the adjuster should do. When a New York Standard Policy is involved, he must be prepared to identify and deal with the person, association, or corporation named in the policy as the insured, or with the legal representatives of the insured and to establish:

1. What policies, binders, or other contracts of insurance covered the property at the time of the loss
2. Whether the property that has suffered loss is the property described in the policy and whether at the time of loss it was located or contained as described in the policy, or had been necessarily removed to some proper place or places for preservation from the perils insured against within 5 days prior to loss
3. The nature and extent of the insured's interest in the property, and also all other interests in it
4. Whether the loss occurred after the commencement and before the expiration of the contract
5. Whether the loss was the direct result of fire or other perils insured against by the policy, or of removal from premises endangered by such perils

6. Whether any part of the loss was caused directly or indirectly by (a) enemy attack by armed forces, including action taken by military, naval, or air forces in resisting an actual or an immediately impending enemy attack, (b) invasion, (c) insurrection, (d) rebellion, (e) revolution, (f) civil war, (g) usurped power, (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided such fire did not originate from any of the perils excluded by the policy, (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises, or (j) theft

7. Whether the loss occurred (a) while the hazard was increased by any means within the control or knowledge of the insured, (b) while a described building, whether intended for occupancy by owner or tenant, was vacant or unoccupied beyond a period of 60 consecutive days, or (c) as a result of explosion or riot, unless fire ensued, and in that event determine what was the amount of loss by fire only

8. Whether before or after the loss the insured willfully concealed or misrepresented any material fact or circumstance concerning the insurance or the subject thereof, or the interest of the insured therein, or has sworn falsely relating thereto, or has committed any fraud, or has failed to comply with any warranty and, by doing so, has made the policy void

The adjuster also must

1. Fix by agreement with the insured, or by appraisal, the actual cash value of the property at the time of loss and the amount of loss thereto (a) not to exceed the amount it would cost to replace the property with material of like kind and quality within a reasonable time after the loss, (b) without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, (c) without compensation for loss resulting from interruption of business or manufacture

2. Exclude from the claim uninsurable property, or excepted property that is not specifically named in the policy as covered

3. Determine the extent of the application of the insurance and the contribution to be made by the insurer to the loss

4. If there are two or more policies covering the property, apportion the loss among them

5. See that the requirements in case of loss that are necessary to produce

information essential to establish the status of liability under the policy, or the value or loss of the property, are complied with

6. Consider the interest of any mortgagee named as payee in the policy, and the action that should be taken by the insurer if the policy is void as to the insured but valid as to the mortgagee

7. Investigate any disputed cancellation of the policy

8. Exercise the option to take all or any part of the property at the agreed or appraised value, or the option to repair, rebuild, or replace the property destroyed or damaged, if by so doing the insurer's loss will be reduced

9. Preserve any right of recovery from third parties for the loss

In addition to doing what the policy requires, the adjuster's position as a representative of the insurer obligates him to report to the insurer every important fact and circumstance he discovers while handling a loss that in any way affects the insurer's interest.

Agencies of Adjustment. Losses of \$100 or less are, in many instances, adjusted by local agents. Larger losses are ordinarily adjusted by *salaried company employees, adjustment bureaus, or independent adjusters.*

Salaried Company Employees. A number of losses are adjusted by state and special agents. Prior to the formation of adjustment bureaus they devoted much more time and energy to adjustment work than they do now. In the larger cities some companies maintain salaried staff adjusters who give all their time to adjustment work. Some state and special agents and some staff adjusters are expected to pay the losses referred to them after making the adjustments, doing so by issuing drafts on the company. The authority granted to these company employees is quite broad.

Adjustment Bureaus. The first organization of the company-owned adjustment bureau type was the Insurance Adjustment Company which was organized in Cincinnati in 1875 and continued to do business until about 1888. Now all bureaus operating in the United States are owned by stock insurance companies. They are the General Adjustment Bureau, which covers all territory except the Middle West, the Western Adjustment and Inspection Company, and the Underwriters Adjusting Company. The three bureaus cover all parts of the nation. Bureaus are intended to furnish the service of competent adjusters at a minimum cost because of the economies of cooperative effort. Their services are on a fee basis. The bureaus maintain branch offices in strategically located cities and towns.

Each of these offices is headed by a salaried manager with a trained staff, the size of which depends upon the amount of work ordinarily received. In some of the smaller localities a single resident adjuster is able to care for the work. The bureaus have been successful in their operation and are generally well supported by the stock companies. They do not limit their services to the companies that own them, as they frequently represent other stock companies, mutuals, reciprocals, and underwriters at Lloyd's. The authority granted to the bureaus is limited to determining value and loss. They are not empowered to pass on questions of liability.

Independent Adjusters. There are a number of independent men engaged in the work of adjusting. Like the bureaus, they are paid a fee for each loss they adjust. Some operate as individuals, others as members or employees of an organization. A group of independent adjusters may organize an adjustment company and function in the same fashion as a company adjustment bureau. The authority granted to independent adjusters is the same as that granted to the bureaus.

Associations of Independent Adjusters. Many independent adjusters belong to the National Association of Independent Insurance Adjusters and to the various state associations.

License Requirements. Some states require that adjusters be licensed by the insurance department. The requirements are not uniform. In one state, a bureau or independent adjuster may be required to take out a license for each insurer that he has occasion to represent during the year. In another, bureau and independent adjusters are permitted to represent any number of insurers under a single license. In other states, New York for example, license requirements apply only to independent adjusters.

Washington and Kentucky provide, in their recently adopted insurance codes, that adjusters from other states may be brought in without licensing if fire, explosion, windstorm, or other peril produces a number of losses reaching catastrophe proportions. New York authorizes the insurance department to issue temporary licenses to non-resident adjusters in such situations.

Many states require licenses of public adjusters.

Committees. In 1909, the New York Board of Fire Underwriters organized a Committee on Losses and Adjustments. The membership of the Board is made up of insurance companies and metropolitan agents doing

business in Greater New York. The Committee was originally empowered to handle losses in which more than three members of the Board were interested. In late years its jurisdiction has been extended to include losses in storage warehouses and on the premises of apparel contractors, fur, food, or drug risks, and losses resulting from fires of questionable origin. Wind-storm, explosion, and sprinkler-leakage losses in which two or more members are interested also come under its jurisdiction. The Committee employs the services of such salaried company adjusters as have been approved by a vote of the members, and such independent and bureau adjusters as have been approved in like fashion and have also been designated by insurers as being their preferred representatives.

In 1926, the Cook County Loss Adjustment Bureau commenced operations in Chicago. This bureau not only uses independent adjusters but also avails itself of the services of adjusters who are employed by the Western Adjustment and Inspection Company and the Underwriters Adjusting Company, maintaining in addition several staff adjusters of its own.

Salvors. In many losses involving stocks of merchandise the adjustment is made under the insurer's option to take the property by paying the insured its sound value. Afterwards, the representative of the insurer sells the damaged merchandise for the insurer's account. Such an operation is *salvaging*. The work of handling salvage is carried on by a number of independent individuals and firms, and also by the two Underwriters Salvage Companies, which are organizations owned and operated by the insurance companies, one headquartered in New York, the other in Chicago. The growth of the Underwriters Salvage Companies has been steady, and their organizations now adequately cover most parts of the United States. The salvage companies are equipped to inventory, remove, recondition, and sell practically all classes of merchandise. They maintain well-organized plants at various points for reconditioning and handling damaged merchandise.¹

Subrogation Specialists. It is a principle of law that when an insurer pays the insured for a loss for which any third party is responsible because of negligence or otherwise, the insurer becomes subrogated to the rights of the insured to maintain a suit at law against the third party. In the New York Standard Policy there is the following provision:

¹ See Chap. 13.

This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

As a number of losses occur involving third-party liability, there is considerable litigation of subrogated claims, most of which is carried on by lawyers who specialize in handling this work.

Principles

In case of loss, the liability of the insurer and the amount it owes, if liable, are dependent upon the insurance contract and the law of the land.

The facts which determine the insurer's liability under one form of contract may be quite different from those which do so under another. The principles, however, which govern all forms of insurance contracts covering property or property rights are the same, and the stipulations and other provisions of the various kinds of policies are similar in their import.

The thoughts presented in this chapter will be primarily directed to the facts and circumstances contemplated by the stipulations and provisions of the New York Standard Fire Policy, 1943 revision, and the extended coverage endorsements which are now being attached to fire policies. Attention, however, will be given to those contemplated by other policies covering property or property rights.

The work of the adjuster begins with an investigation of the circumstances attending a reported loss and affecting the claim. If what he finds shows that the insurer is liable, he proceeds to establish the amount of the liability and sees to it that the requirements of the insurance contract are complied with and that any rights of value to the insurer are exercised or preserved.

If what he finds indicates that the insurer is not liable, he seeks to avoid acting in a manner that may be construed as a waiver of any defense the insurer may have against the claim or an estoppel of its right to use the defense.

Answers to the following general questions determine the existence, validity, and operation in case of loss of any insurance contract covering property or property rights, also whether the adjuster has done what he should to prevent allegations of waiver or estoppel if the insurer is not liable.

1. Does the person on whose behalf claim is made hold a valid contract of insurance?

2. Does the contract describe the property that was lost, destroyed, or damaged?

3. Did loss occur after commencement and before expiration of the contract?

4. Was the loss caused by the direct action of a peril insured against?

5. Did the contract cover at the time and place of loss?

6. Has anything happened since the loss occurred to relieve the insurer from liability?

7. What was the *sound value* of the property and what is the amount of loss? (*Sound value* is the actual cash value of the property in sound condition just before its damage or destruction.)

8. What are the nature and extent of the insured's interest in the property, and what loss will he sustain because of its loss or damage?

9. Does the claim include any property not covered, or any loss not caused, by a peril insured against, or any item of expenditure that should not be allowed?

10. To what extent does the insurance apply, and what contribution is to be made by the insurer to the loss?

11. Is there other insurance that should bear the loss or any part of it?

12. Has the insured complied with the requirements in case of loss?

13. Should the option of repair or replacement, or of taking property at its agreed or appraised value, be exercised?

14. To whom should payment be made?

15. Is there any right of recovery from any party for the loss?

There are two supplemental questions, which may be asked at any time:

16. Are there any circumstances attending the insurance, the loss, or the claim, which show that the insurer is not liable or indicate that it may not be liable?

17. If there are, or if there were, any discussions or negotiations between the insured and any representative of the insurer as to liability or amount of loss after the insurer or its representative became aware of the circumstances, were all rights of the insurer preserved by written agreement that acts of the insurer or its representative should not be construed as a waiver of contract conditions or an estoppel of the use of any defense?

Contract of Insurance. The person making claim must hold a valid con-

tract of insurance. Three kinds of insurance contracts are recognized: (1) policies, (2) binders, and (3) oral agreements to insure.

The insurance contract is created by agreement between the insured and the insurer, covering the following: (1) the parties, (2) perils insured against, (3) property to be covered, (4) amount of insurance, (5) rate of premium to be charged, (6) time and date of commencement and of expiration. It has generally been held that the first three items must be agreed upon; otherwise there will be no contract.

Under the general rules of contract law the insured and the insurer, in order to make a valid contract of insurance, must be legally competent to make contracts. A fire-insurance company, for example, is authorized by law to make contracts of insurance against loss of property by fire and certain other perils, but is not authorized to make contracts of life insurance. A person of less than legal age, or an adjudged mental incompetent, or a bankrupt is not legally competent to make contracts.

Other requisites are that contracts must cover lawful purposes, that they must be based on a consideration, and, finally, that the parties to any contract must actually agree to enter into it, in other words, that there must be a meeting of the minds.

Policies are completed documents in which the insurance contract is set forth in all its details.

A binder is a brief preliminary memorandum containing the essentials of the contract, as noted above, which are to be set forth in the completed policy. It is accepted practice that the insurance contract created by the signing or initialing of a binder is the same as that to be embodied in the policy when it is issued.

In nearly all states an oral agreement to issue a policy is a binding contract, whether the policy is to cover a new risk or to renew a policy that is expiring. If the person who agrees to issue the policy is an agent or other authorized representative of only one insurer, no question arises as to what insurer is party to the contract. But if he is a representative of several, as is frequently the case with local agents, he must agree with the insured upon which one of his companies is to be selected. If the agent fails to agree with the insured upon a company and loss occurs before he issues a policy, he may, himself, be liable for the loss.

A contract that was valid at the date of its making can afterwards be rendered void by fraud or by breach of a material condition. Fraudulent

acts by the insured in preparation for willful damage to the property, and the accomplishment of such damage, for example, by setting fire to it or by deliberately increasing damage after a fire, will avoid the contract.

The New York Standard Policy limits the circumstances that will avoid it to willful concealment or misrepresentation of material fact or circumstances, and fraud or false swearing.

In some states, the courts hold that a policy is an entire contract and is void if any warranty or condition has not been complied with, even though it applies to only one item. In other states, the courts take an opposite view, holding that it is a divisible contract and that only the item to which the warranty or condition applies is affected. In still other states, the courts take a middle course, the application of the doctrine of entirety of contract depending on the circumstances of the particular case.

Insurance contracts are ordinarily subject by their terms to cancellation by either party. To make cancellation effective, the insured or the insurer must follow the steps prescribed by the contract unless they mutually agree upon cancellation at a definite date and time.

Property Covered. The insurance contract describes the property covered and states its location. To make the insurer liable, loss, destruction, or damage must involve the described property and must occur within the boundaries of the locations stated.

Time of Loss. The insurance contract covers loss that has its origin during the term of the contract. There is no liability for loss or damage that had its inception before the contract took effect or after it expired. After commencement, the contract covers up to the moment of its expiration, and if a peril insured against begins to damage the property at any time between, even a split second before expiration, the full damage is covered.

There have been rare cases where, during the progress of a fire, one policy expired and the policy of another insurer, covering the same property, commenced. In some of these cases the loss exceeded the amount of the expiring policy, and the insured made claim under both policies. In such cases, claims have usually been resisted by the insurer that issued the later policy.

Direct Loss.Caused by Peril Insured Against. The insurance contract covers direct loss caused by any peril insured against, that is, immediate or proximate as distinguished from remote or consequential loss. It is not essential that the proximate cause of loss be a peril insured against, as any

ensuing loss caused by such a peril is covered. For example, under the standard fire policy the peril of explosion is not insured against, but fire damage ensuing upon an explosion is covered.

Consequential losses are insured against only by special stipulation. Two examples follow.

A dealer in fresh meats preserves his stock in electrically operated refrigerators. The building he occupies receives current from a power house some distance away. The power lines are carried from the power house to the building on poles and pass a structure that burns. Falling walls break the power lines, and new lines are not installed until after the temperature in the refrigerators has risen and the meat has spoiled. The dealer's policy covering the meat will cover the loss only if it contains a consequential-damage clause.

A manufacturer of men's clothing cuts his cloth and sends the parts to three different garment contractors to be made up, the coats to one, the vests to another, and the pants to a third. The coats and vests are made up and returned to him. The pants are destroyed on the contractor's premises. Unless the manufacturer can buy identical cloth and have the pants replaced, he will suffer a heavy loss on the coats and vests. The loss on the coats and vests, due to lack of pants to match, will be covered only if his policies specially provide for it.

Fire. When fire consumes, scorches, cracks, melts, smokes, softens, or evaporates solid or liquid property, or explodes or causes the escape of gaseous property, it does direct damage. The results of fire covered by the fire-insurance contract, however, may include things other than combustion, such as the fall of a building; or injuries to property by water used in fighting the fire, or released by it, by the acts of firemen, or by efforts of persons to remove personal property to a place of safety. The results of fire may also include rain damage to the interior or contents of a building, if the owner, acting with reasonable diligence, has not had time to close the roof or windows against the weather. But if the owner, instead of acting with reasonable diligence, should refuse to take any steps to protect his property, and some weeks later further loss should occur as the result of rain, the further loss would be looked upon as a consequence of the rain, or of the owner's negligence, and would not be covered. A similar situation might be the result of other weather conditions, such as extreme cold.

Hostile and Friendly Fire. Fire is a hostile or friendly agency depending

upon the manner of its origin and the place in which it burns. Fire outside of a place or receptacle in which it is intended to burn is a *hostile fire*. The word "fire," as used in the policy, means hostile fire. Explosion caused by a hostile fire is considered to be part of the fire.

Damage is frequently caused by *friendly fires*. A chair may be left in front of a fireplace where the heat is great enough to blister or scorch the chair without causing ignition. The damage in such a case is not covered because the fire causing it is friendly. Claims for damage of similar nature are encountered in connection with stoves, heaters, electric irons, or mislaid cigarettes; and for smoke damage,¹ done by smoking oil stoves and other heating devices. Occasionally articles are destroyed or damaged because they have been unintentionally thrown into fireplaces, furnaces, or incinerators.

It is reasonable to assert that the mere scorching, without ignition, of a table top, table cloth, or rug, or the upholstery of a chair or settee by the heat of a mislaid cigarette is not direct loss by fire. But it is hard to justify an assertion that there has been no direct loss by fire if the cigarette has actually burned a hole in the table cloth, rug, or upholstery. Damages due to the heat of a friendly fire, or heated substance, are responsible for occasional claims in manufacturing plants as a result of troubles arising from a variety of appliances, processes, and materials. Furnaces, ovens, stills, retorts, and other units sometimes destroy or damage their contents or themselves under the heat of their own processes. An example of damage done by a heated substance is found in losses in glassworks due to the breaking of tanks containing cullet, which is molten glass in the making, the break allowing the white-hot cullet to run into the pit under the tank or over the floor of the plant. The heat from the cullet sometimes does serious damage. But unless there is ignition of inflammable material and damage is done by the resulting hostile fire, the insurer is not liable in the absence of a special insuring agreement in the form.

The extensive use of gas and oil is responsible for many claims following explosions under circumstances that present no element of hostile fire.²

¹ The peril of smoke is now insured against by use of the Extended Coverage Endorsement. See Smoke, p. 21.

² The peril of explosion is now generally insured against by special provision, such as Inherent Explosion Clause or Extended Coverage Endorsement. See Explosion, p. 18.

Burglars' Torches. At times burglars seriously damage a safe or vault with an acetylene torch or electric arc in their efforts to make entry. Losses due to such damage are collectible under burglary policies, and should not be treated as fire damage.

Accidental and Incendiary Fires. The fire-insurance contract protects the insured against loss caused by hostile fire that is accidental so far as the insured is concerned. Even if the fire results from the insured's own negligence, the loss is covered. An incendiary fire, not caused or procured by the insured, is treated as accidental so far as he is concerned. A fire willfully set by the insured, or with his approval, and intended to damage the property in order that claim may be made against the insurer is fraudulent, and loss resulting from it is not covered. Exception is made if the insured is insane.

Spontaneous Combustion. Spontaneous combustion is defined in Webster's dictionary as "combustion produced in a substance by the evolution of heat through the chemical action of its own constituents." At times the entire mass of a lot of material will heat, due to such action, and eventually fire will break out. Prior to the outbreak there is no hostile fire, and the actual loss of the material's value will have occurred before there was a fire. Such losses occur in cotton seed and other vegetable products that ferment when wet and heat rapidly. There are times, however, when spontaneous combustion will occur in one part of a mass and start a fire that spreads to the rest. Such fires occur in bituminous-coal piles or piles of charcoal, and by far the greater part of the loss is due to the direct action of fire.

Lightning. Direct damage is done by lightning when it strikes vulnerable property and shatters, cracks, or fuses it. Sometimes a piece of masonry, broken by lightning, falls and does damage. Occasionally a tree is shattered, and the trunk or heavy limbs fall on a nearby building, damaging roof or walls. In either event the damage is treated as direct loss by lightning, which is covered by the New York Standard Fire Policy. Lightning causes many fires, and these often obliterate all evidence of the direct lightning damage.

Electrical Injuries. The burning out of wiring, switches, resistance bars, or other conductors by electric currents in excess of their capacity is due to heat and not to fire. Losses caused by electricity are properly termed electrical injuries. The intense heat generated by electricity often destroys the

serviceability of conductors before there is a chance for the combustion of any insulating material to do any damage. Most policy forms exclude loss due to electrical injury or disturbance unless caused by lightning but cover the damage from ensuing fire, if any.

Windstorm. Wind of storm velocity causes direct damage when it blows away, blows down, blows apart, or blows together objects exposed to its violence. It sometimes propels through the air pieces of material that strike property and damage it by impact. Windstorm, like fire, may unroof or otherwise open a building to the weather, permitting rain or cold to cause further damage. If the owner, acting with prudence, cannot repair or protect the building in time to prevent the additional damage, it is considered to be direct loss. Rain and cold often accompany windstorms. Bodies of water are set in motion by windstorm with resulting damage to shore property by wave wash, the pounding of floating ice in cold regions, and at times by inundation. Rain falling during a windstorm may damage the interior of a building because of a leaky roof, faulty workmanship around window frames, or because windows or doors had been left open. Current policies insuring against windstorm exclude such damage by stipulation (1) that the insurer shall not be liable for loss caused by ice, tidal wave, high water, or overflow, whether driven by wind or not, nor (2) for loss to the interior of a building or property therein caused by rain, sand, snow, or dust, whether driven by wind or not, unless the building shall first sustain damage to roof or walls by direct force of the wind. Following such damage, the insurer is liable for loss to the interior of the building or the property in it caused by the rain, snow, sand, or dust that enters through openings in the walls or roof made by the wind.

Early windstorm policies generally stated the perils insured against as "cyclone, tornado, or windstorm." Some policies still use such words, while others add the word "hurricane." These words indicate the intent of the policy to cover loss occasioned by wind of storm velocity, and not such loss as occasionally results from a stiff breeze or even a high wind. A 25-mile breeze will slam a freely swinging door or window blind and possibly cause glass breakage, or it may blow a curtain against a vase or table ornament, causing it to topple over and fall to the floor and break. Wind velocities are classified by the United States Weather Bureau according to Beaufort's scale.¹ The lowest velocity to which any name indicating storm

¹ See Appendix C.

violence attaches is 39 miles an hour. A wind between 39 and 46 miles is called a gale.

Hail. Hail breaks or cuts the leaves and stalks of growing crops. It pelts the roofs and walls of buildings and breaks windows and skylights. It does serious damage by breaking glass in greenhouses. It sometimes punctures roof coverings and breaks gutters. Like fire or wind, it may open buildings to further damage by rain or cold. The insured, however, must do what is possible to prevent further damage.

Explosion. Explosion is defined in Webster's dictionary as

a violent bursting or expansion, with noise, following the sudden production of great pressure, as in the case of explosives, or a sudden release of pressure, as in the disruption of a steam boiler.

Explosion causes direct loss by rupturing, shattering, cracking, or shaking containers or structures, by scattering material, by hurling pieces of debris through space and causing them to strike with damaging impact, by breaking pipes and wiring. It also causes loss by opening buildings to the weather as do fire and windstorm. Explosion resulting from any cause except hostile fire is treated as an explosion; but explosion caused by hostile fire is treated as part of the fire. The New York Standard Fire Policy does not cover loss caused by explosion unless fire ensues, and in that event covers for loss by fire only.

The peril of explosion is insured against in several ways. There are special policies that insure against it, in connection with riot and civil commotion. Explosion clauses, some limited to inherent explosion, others all-embracing, are occasionally attached to fire policies. But in the past few years the widespread use of the Extended Coverage Endorsement, including explosion with several other perils, has been the generally accepted method of insuring against it.

The industrial world has made such rapid strides in the use of powerful forces that neither the courts nor the insurance companies have been able to produce a definition of explosion that is acceptable in all cases.

It is accepted that if gunpowder, or a mixture of inflammable gas or vapor and air, is ignited or if dynamite is detonated, the resulting sudden production of heat, flame, and force is an explosion. It is also accepted that, if steam pressure becomes excessive in a boiler, or air pressure in a tank or other container, and boiler or container bursts, the event is an explosion.

Some occurrences that cause loss are, from time to time, claimed to be explosions. The common ones are:

1. Rapidly rotating wheels, such as flywheels or grinding wheels, occasionally fly apart owing to centrifugal force, and the flying pieces do great damage.

2. The pressure of water in a pipe becomes too great, and the pipe splits or an elbow or tee breaks, releasing a torrent of water.

3. A tank filled with liquid, or a bin or building filled with a granular mass like wheat, is not strong enough to hold the weight of the liquid or the wheat, and there is a break in the wall of the tank near the base through which the contents pour out.

While the author believes that such occurrences are not explosions and were never intended by the framers of the Extended Coverage Endorsement to be included in its protection, it may be expected that losses resulting from them will continue to be the subjects of litigation until underwriters revise the language of the form to express clearly their intent.

There is disagreement about explosion intentionally caused for a useful purpose, such as blasting for excavating, heavy gunfire for target practice, or experimental explosion of atomic bombs. One group of underwriters believes that the doctrine of friendly fire calls for a parallel doctrine of friendly explosion. Another group does not.

The author has for several years concurred in the opinion expressed by the late W. N. Bament, a former general adjuster of The Home Insurance Company and one of the great loss men of all time, that damage done by blasting, whether by concussion or flying debris, is direct loss by explosion. One case tried in a lower court in Buffalo, N. Y., resulted in a judgment holding the company writing explosion insurance liable for blasting damage. The case was not appealed and was therefore not reported.

There is still a question in the author's mind about damage due to the concussion of gunfire for target practice in peacetime. Fortunately, there are relatively few claims on account of such damage.

The latest type of explosion claim being debated by underwriters is based on the damage caused by burglars when they blow safes. This is a type of claim that should be made under a burglary policy.

Riot and Civil Commotion. Under the common law, riot is a tumultuous disturbance of the peace by three or more persons assembling together

on their own authority with the intent mutually to assist one another against all who shall oppose them, and afterwards putting the design into execution in a turbulent and violent manner, whether the object in question is lawful or otherwise. In the United States, racial and labor disturbances are the most common causes of riots. Distress in agricultural communities, due to overproduction, has occasionally led to night riding and burning of barns or warehouses by organized bands.

The sit-down strike which came into prominence in the early 1930s would probably be held by any of our courts to be a riot.

Rioters set fires and do other kinds of damage to property. They cause loss by pillage and looting. They break open doors and windows, enter premises, smash fixtures and machinery, throw stench bombs, and sometimes destroy merchandise by slashing it, fouling it with oil, paint, or other substances, or sprinkling it with acid. The act of three or more persons who entered a factory, overawed the personnel, and damaged the equipment and stock was held by the courts to be a riot.

In some states, riot has, by statute, been defined to be the lawless action of two or more persons.

As is the case with explosion, the New York Standard Fire Policy does not cover loss occurring as a result of riot, unless fire ensues, and in that event, loss by fire only.

The peril of riot, like that of explosion, is insured against in several ways, sometimes by special policies, sometimes under an Extended Coverage Endorsement. Generally these policies and endorsements also insure against the peril of civil commotion, first defined by Lord Mansfield: "A civil commotion is this; an insurrection of the people for general purposes, though it may not amount to a rebellion, where there is an usurped power."¹ In later cases the courts have followed his definition.²

Vandalism and Malicious Mischief. Vandalism is defined in Webster's dictionary as "hostility to, or willful destruction or defacement of things of beauty" Malicious mischief is defined in the same dictionary as "willful and unlawful injury to the property of another." Losses due to vandalism or malicious mischief resemble those due to riot, the difference from the viewpoint of the underwriter being that claims for damages due

¹ *Longdale v. Mason* (1780) reported in "Park on Marine Insurance," 7th ed., p. 667; 8th ed., p. 965.

² Black's Law Dictionary, p. 348. "Words and Phrases," Vol. 7, p. 304.

to vandalism or malicious mischief do not require proof as to the number of persons who caused the damage, whereas riot claims require proof that the damage was done by the mutual action of three or more persons; in some states, by two or more.

Aircraft. Flying or falling aircraft, or objects falling from aircraft, damage property by impact. Escaping gasoline and oil destroy vegetation and cause other damage. The peril has been insured against only since airplanes became numerous. It is included in the Extended Coverage Endorsement. Recently, serious damage has been suffered in Elizabeth, N.J., due to two crashes.

Vehicles. Vehicles in motion at times get out of control and damage structures or their contents by impact. Faulty driving also produces damage. The peril is defined in the Extended Coverage Endorsement as actual physical contact of a vehicle with the property covered. Vehicle damage ranges from minor scraping of buildings or other structures and breakage of doors and doorframes to serious wall damage and collapse of buildings struck by heavy trucks.

Smoke. The term "smoke" as used in the Extended Coverage Endorsement is limited to smoke due to a sudden, unusual, and faulty operation of a heating or cooking unit connected to a chimney by a smoke pipe. The use of oil burners for heating, particularly in dwellings, is responsible for smoking up buildings and their contents, because of the occasional failure of the burners to function properly. In such instances there is ordinarily no hostile fire, only the production of smoke in such volume that the flue cannot carry it off. The heavy smoke blackens walls, ceilings, and furnishings, requiring owner or tenant to incur the expense of cleaning and, in many cases, repainting.

Damage due to a gradual day-to-day accumulation of smudge is not covered, nor damage from smoking fireplaces, kerosene lamps, or portable heaters or cooking units.

Coverage of Contract at Time of Loss. The New York Standard Fire Policy, 1943 revision, stipulates that, unless otherwise provided in writing added to the policy, the insurer

shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the insured; or while a described building, whether intended for occupancy by owner or tenant is vacant or unoccupied beyond a period of sixty consecutive days.

Formerly there were several other circumstances that would operate to suspend coverage. They have been omitted from the new policy.

Increase of Hazard. The insurance contract assumes that the degree of hazard which existed at the beginning of the contract and on which the insurer based the rate and other conditions of the contract, will not be increased by means within the control or knowledge of the insured. If the hazard is increased, the insurance ceases to cover, but resumes cover if the hazard subsequently decreases to its original degree. It is well settled that, if the property or anything connected with it changes so that the danger of fire is greater, there has been an increase of hazard. In other words, anything that ordinarily increases the chance of fire in or near the risk is an increase of hazard. Thus, the movement into the premises of such inflammables as gasoline or fireworks is an increase of hazard, as is also the installation of manufacturing processes using highly combustible substances such as celluloid, excelsior, or lint cotton. The erection of a nearby structure, the burning of which would ordinarily damage the risk, is an increase of hazard. A decisive test of whether an increase of hazard has taken place is an application of the rating schedule, or a consideration of the underwriting rules that apply to the risk. If the change of conditions in or adjacent to the risk would, under the rating schedule, entitle the company to a higher rate or, under the rules, would require the insured to submit to some restrictive modification of his policy, there has been an increase of hazard. But only those increases of hazard which are within the control or knowledge of the insured will suspend the coverage of the policy.

Two clauses are commonly used to provide for continuance of protection during increase of hazard: (1) the *work and materials clause*, which permits the insured to do such work and use such materials as are necessary to his business, and (2) the *no control clause*, which, however worded, provides that the insurance shall not be suspended or invalidated by any increase of hazard in parts of the premises over which the insured has no control.

In some jurisdictions, the courts treat the provision as to increase of hazard as applying only to cases in which the increase was responsible for, or contributed to, the loss.

Vacancy and Unoccupancy. If a building is empty of furniture, machinery, merchandise, or other personal property normally kept in it, it is vacant. If it is without human tenants, it is unoccupied.

Insurance protection of property that is vacant or unoccupied for longer

periods than the time permitted by the policy is provided by various forms of *vacancy permits*.

Other Provisions. Present-day automobile-insurance policies provide that they do not apply

while the automobile is used as a public or livery conveyance, unless such use is specifically declared and described in this policy and premium charged therefor;

One form of jewelers' block policy provides that it does not cover damage sustained while the property is being actually worked upon and directly resulting therefrom.

Duties and Conduct of Insured after Loss. The insurance contract obligates the insured to (1) give notice of loss, (2) protect property from further damage and minimize loss, and (3) prepare and present claim. The conduct of the insured after loss has occurred will, if proper, entitle him to the benefits of his insurance but, if improper, may invalidate it or cause forfeiture of his right to maintain claim.

As set forth in the New York Standard Policy it is the duty of the insured to

give immediate written notice to the Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured . . .¹.

Avoidance of Contract after Loss. An insurance contract that was valid at the time loss occurred, or when notice was given the insurer, may thereafter become void. It is expressly stipulated in the New York Standard Policy that it shall be

void if the insured has wilfully concealed or misrepresented any material fact or circumstance concerning the insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Willful exaggeration in making claim, particularly when supported by

¹ A full discussion of the insured's duties will be found in Chap. 7.

the presentation of forged invoices or other documents, will avoid the contract. Willfull injury to what remains of the property, if done in order to increase the loss to be claimed under the insurance, will also avoid the contract. Occasionally, following a genuinely accidental fire, a dishonest insured will present a fraudulent claim. A New York statute makes the presentation of a false proof of loss a criminal offense. The sending of a fraudulent proof of loss through the mails makes the sender subject to prosecution in the federal courts for use of the mails to defraud.

Loss of Right to Enforce Claim. Failure on the part of the insured to comply with the contract requirements in case loss occurs will make him lose his right to enforce claim. If he destroys the evidence of the loss before the insurer has had an opportunity to examine it, even if he does it innocently, he loses his right to collect. While the New York Standard Fire Policy and many others stipulate that the insured shall file proof of loss within 60 days after loss occurs, several of the states have enacted statutes directing insurers to notify the insured that they will require the filing of a proof within a specified period of time and also requiring them to furnish him with the necessary blanks. In some other states, delay in filing proof merely delays the time when the claim will be due for payment and suit may be brought to enforce it.

In any state, if the insurer demands that proof be filed and the insured fails to comply with the demand, he cannot enforce his claim.

If after a loss for which a third party is liable the insured releases the third party without consent of the insurer, the insured loses his right to collect from the insurer.

If the insurer denies liability, the insured is relieved of the duty to file proof of loss and may institute suit without waiting to comply with policy requirements.

Value and Loss. The New York Standard Fire Policy, 1943 revision, provides that

this Company. . . .to an amount not exceeding.Dollars, does insureand legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business

or manufacture, nor in any event for more than the interest of the insured, against all direct loss by fire, lightning and by removal from premises endangered by the perils insured against in this policy, except, as hereinafter provided, to the property described hereinafter

Other policies use various terms to express their purpose of covering property to the extent of its actual cash value. In the Massachusetts policy the term is *actual value*. Regardless of differences in terms, the intent is the same. The older New York Standard Policies stipulated that cash value should be determined with proper allowance for depreciation. The stipulation was deemed to be superfluous and was, therefore, omitted when the present policy was adopted.

Value. There are two kinds of value: (1) value in use and (2) value in exchange. Value in use depends upon the benefits the owner derives from the property in the way of income, help in his work, shelter, health, comfort, or pleasure. Value in exchange depends upon what a buyer will pay for the property. Value in use is ordinarily measured by the cost of replacing the property less depreciation. It is, therefore, almost always a matter of opinion. Value in exchange is measured by the prices at which the property will sell. It can often be established as a matter of fact.

Depreciation. Depreciation is the lowering of the value of property. As used in loss work, the word depreciation signifies the lessening of value due to deterioration, often termed wear and tear, or to obsolescence. If from the cost of replacing a piece of property there is deducted a sum that fairly represents the depreciation the property has undergone, the remainder will represent its value. In the adjustment of fire, tornado, or other losses for fire-insurance companies, it is customary to use the expression *less deduction for depreciation*. In the adjustment of marine losses, the equivalent expression is *less for the value of new over old*.

There is a growing practice of not mentioning depreciation except in connection with property that has been lost or destroyed. When repairs require the replacement of entire units, such as the covering of a roof or the redecoration of premises that were in need of painting or papering prior to loss, it is becoming the practice of adjusters to discuss the betterment that replacement or redecoration will produce rather than the depreciation that had accrued.

The insured should not, at the expense of the insurer, be put in a better condition after loss than before.

Value Covered by Policy. It is accepted practice that buildings are covered for their value in use. Furniture, fixtures, machinery, clothing, and similar property are likewise covered for their value in use when they actually are in use. Stocks of merchandise are covered for their value in exchange, not exceeding the cost of replacing them.

Many parcels or articles of property have a value in use that is greater than their value in exchange. Thus, a year-old suit of clothes, covered under a household-furniture or personal-effects policy, might well have, if not too frequently worn, a value to the insured, because of its usefulness, of from one-half to two-thirds of the cost of replacing it new, perhaps even more. But the insured could not expect to sell the suit for more than a secondhand dealer would pay for it, about 10 per cent of its cost. In case of loss of the suit, the insured would be entitled to its value in use.

Raw materials and manufactured articles have their lowest value while in the hands of the producer or manufacturer, and successively higher values in the hands of the wholesaler or jobber, the retailer, and the final purchaser who is to use them. The policy of each owner covers such materials or articles for their value while in his possession. As long as materials or articles are in the channels of trade, the test of value is (1) what they will sell for and (2) what it will cost to replace them. The lower figure is the insurable value. When they pass into the hands of the ultimate consumer who will use them and not sell them, the test of value is replacement cost less depreciation.

Loss. Standard policies insure to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount that it would cost to repair or replace the property with material of like kind and quality within a reasonable time after loss. Cost to repair is accepted as including cost of reconditioning.

The property covered by the policy may be (1) all lost or destroyed, (2) part of it may be lost or destroyed, (3) all of it may be damaged, (4) part of it may be damaged, or (5) part may be lost or destroyed and the rest damaged in whole or in part.

1. When all of the property covered by the policy, or by a specific item in the policy, is lost or destroyed, the maximum amount that the insured can collect is the value of the property, unless the policy contains a *debris-removal* clause. If, for example, a building is covered by a policy, or an item, of \$10,000 but has a value of only \$9,000 at the time it is destroyed

by fire or other peril insured against, and if there is no debris-removal clause in the policy, the insured cannot collect more than \$9,000, although in addition to losing his building he may find it necessary to spend \$500 to remove the debris before he can rebuild. If, instead of a building, a stock of glassware is covered and is reduced by the fire or other peril to a mass of broken glass, the same situation prevails. The insured can collect for the value of the stock but, unless there is a debris-removal clause, not for the cost of clearing the premises of the fragments of glass and carting them to the dump.

2. When part of the property is lost or destroyed, the insured can collect for the value of the part. In the opinion of some loss men, that is all that he can collect. These men summarize their opinion by saying, "We will pay for the horse but we won't pay for burying it." In the opinion of other loss men, however, the insured may, in some instances, when part of the property has been lost or destroyed, collect something more than the value of the part. It is their opinion that the policy or item insures to the extent of the value of all the property covered and that any loss that is less than the value of all the property can be collected. If by reason of loss or destruction of part of the property the insured is put to the expense of clearing away the debris in order to make replacement, he can, in their opinion, collect for the expense. The author concurs in this opinion but realizes that much good argument can be made against it and that the question cannot be considered as settled. The conflict of opinion, however, is rapidly becoming academic because of the increasing use of debris-removal clauses which fully indemnify the insured for cost of removing debris in losses involving part of the property. If enough insurance is carried, they will also indemnify him for such cost in total losses of all the property.

3. When all the property is damaged, the amount collectible is the difference between the value of the property before the loss and its value after the loss, but not more than the cost of repair.

4. When part of the property has been damaged, the amount collectible is the difference between the value of the part before the loss and its value after the loss, but not more than the cost of repair, unless the damage requires that expense be incurred in caring for the undamaged part of the property.

5. When part of the property has been lost or destroyed and the rest

damaged in whole or in part, the amount collectible is determined according to what has been said under (2) and (4).

Cost of Repair or Replacement. The cost of repair or replacement is the limit of loss when the property is worth repairing or replacing and when the repairs or replacement can be made within a reasonable time and will restore the property to its original value. If they will not, the difference between the value before loss and the value after repair must be added. Sometimes repairs will make the property more valuable than before the loss. In such a case the increase in value due to the betterment of the property must be deducted.

Emphasis must be put on the statement that cost of replacement by normal process is not, in some cases, a proper measure of loss. In the short, but acute, depression of 1920-1921 there was an oversupply of woolen piece goods in the New York market. As a result, many stocks were sold out at prices materially below mill quotations for replacement. Losses on such stocks were settled on the basis of what they were selling for because, at the time, they were not worth the cost of replacing by purchases from the mills.

Valued Policies. In more than 20 states there are statutes which require that, under a policy covering a building, the insurer shall pay the full amount of the insurance if the building is destroyed. Such statutes, commonly termed *valued-policy laws*, override the provision of the policy as to actual cash value in case of complete destruction of the building.

In marine and many inland-marine policies, articles of personal property are covered for agreed values, and in case of loss the insurers are liable for such values unless the insured induced the insurer by fraud to agree upon a value in excess of actual value.

Interest of the Insured in the Property. Because the insurance contract is a conditional agreement to indemnify the insured for loss or destruction of the property, or damage done to it, it is elementary that, unless he has an interest in the property which would make him suffer an immediate or future pecuniary loss in the event it is lost or damaged, he is not entitled to payment. The insurance contract is not a mere bet or wager made by the insurer that the property will not be lost or damaged during a specified length of time.

The interest of the insured determines how much he will lose if the property is lost. If he is the unconditional and sole owner, his loss will

equal the value of the property or the amount of damage to it. If his interest is less than ownership, his loss can be no greater than the value of his interest. A mortgagee, for example, in event the mortgaged property is destroyed, can lose no more than the amount of his mortgage debt.¹

In order to emphasize the principle of indemnity, it is stipulated in the New York Standard Policy that it does not insure

in any event for more than the interest of the insured.

Claim. A claim should state the sound value of the property described by the policy or any item involved and the amount of loss caused by the perils insured against. As amount of loss may be any one of the following or a combination of two or more of them, a claim should state in reasonable detail

1. The value of the unit or units of the property lost or destroyed
2. The reduction in value of any unit or units by reason of damage
3. The estimated or actual cost of replacing, repairing, or reconditioning the property
4. The expense of saving the property at the time of loss or of protecting it from further damage after loss

A claim should include only such property as is covered by the insurance and such loss or expense as was directly caused by the perils insured against.

Value, loss, and allowable expense are matters of adjustment. Property covered and cause of loss are matters of contract.

Value and Loss. The figures of value and loss, including any expense claimed as part of the loss, as stated in a claim are subject to scrutiny by the insurer who may accept them or disagree with them. In case of disagreement, the insurer may try to adjust differences of opinion and, failing to do so, may ask that value and loss be determined by appraisal, reference, or arbitration.

Losses Not Covered. *Property Listed in Claim.* The list of property in a claim is subject to scrutiny by the insurer for units, parts, or articles not covered by the insurance.

Loss Claimed. Loss claimed is subject to scrutiny for loss caused by perils

¹ The various interests of persons insured and how these interests affect the amounts to be paid in case of loss are described in Chap. 5.

not insured against, excepted loss, or loss that had occurred at some prior time.

Property Not Covered. The kinds of property not covered by the insurance that are, at times, improperly listed in claims are (1) property declared by the contract to be uninsurable, (2) excepted property not specifically covered, (3) property otherwise insured, (4) property of a kind or at a location not described.

1. *Uninsurable property.* The New York Standard Policy does not cover accounts, bills, currency, deeds, evidences of debt, money, or securities. Some inland-marine policies add, after the word "money," the word "notes."

2. *Excepted property.* This term is applied to property that the insurance contract stipulates will not be covered unless specifically named in the contract in writing. The New York Standard Policy does not cover bullion or manuscripts unless they are specifically named.

The current windstorm and hail section of the Extended Coverage Endorsement does not cover, unless liability is specifically assumed by further endorsement of the endorsement,

- (a) grain, hay, straw or other crops outside of buildings or
- (b) windmills, windpumps or their towers, or
- (c) crop silos (or their contents), or
- (d) buildings (or their contents) in process of construction or reconstruction unless entirely enclosed and under roof with all outside doors and windows permanently in place.

3. *Property otherwise insured.* A claim under a policy covering machinery may include a special machine covered by another policy that covers nothing else. The policy covering machinery may stipulate that it does not cover property otherwise insured or that it covers such property only for its value in excess of the other insurance.

4. *Property or location not described.* A claim under a policy covering on fixtures may include articles that are stock or vice versa, while a claim under a floater policy covering in stores and warehouses may include articles that, at time of loss, were in a factory.

Loss by Peril Not Insured Against. Claim for loss in a manufacturing plant damaged by fire may include oil from a tank that, before the fire, cracked because of age or the settling of its foundation and permitted the oil to

escape and flow over the floor of the plant from which it could not be recovered. In the fire that followed, owing to the oil flowing against pieces of hot metal, the oil was destroyed and the plant damaged. The loss of the oil had occurred before it took fire and is not a proper item of claim.

Excepted Losses. Claims will at times include loss which is excepted by the insurance contract. For example, property stolen during the confusion attending a fire, explosion, or windstorm may be listed in a claim made under the standard fire policy with Extended Coverage Endorsement attached, but the policy excepts loss by theft. As another example, claim under the windstorm provision of the Extended Coverage Endorsement may include damage to the interior of a building or its contents due to rain driven through window and doorframes or other parts of the structure that were not weathertight. Loss caused by such damage is excepted. Under the same provision, many claims made on property fronting the sea include damage done by tidal wave, high water, or overflow caused by the driving of hurricane winds. Loss caused by such damage is also excepted.

Previous Loss. At times, claims will improperly include loss or damage that had occurred before the fire or other casualty. Building claims, for example, may include plaster that had fallen before the casualty, or unrepaired damages that were caused by previous fires, windstorms, or leakages. Stock claims may include foodstuffs that had spoiled before the casualty, or metalware that had been rusted before the casualty by poor storage conditions or other causes.

Application and Contribution of Insurance. The extent to which the insurance applies and the contribution to be made by the insurer in cases of loss are matters of contract. A policy may provide for off-premises coverage, that it shall be excess insurance, or that the liability of the insurer at a designated location shall be limited to a stipulated amount. Coinsurance, average, contribution, and percentage-of-value clauses are attached to many policies in order to limit the liability of the insurer.

Other Insurance. If two or more policies insure the same interest against the same peril and cover the same property, they are said to be *concurrent*. If only concurrent policies are involved in a loss, each is liable for no greater proportion of the loss than the amount for which it insures bears to the total amount for which all policies insure. If each policy constitutes one-third of the whole insurance, the apportioned liability of each will be

one-third of the loss. But when one policy covers all of the property and another covers only a part, or when there are other combinations of policies that do not cover alike, the policies are said to be *nonconcurrent*, and the amount to be paid by each must be determined according to rules and practices followed by loss men. The arithmetical operation of determining the prorata liability under a policy, or other liability according to accepted rules and practices, is called *apportionment*.¹

Requirements in Case of Loss. In many of the older marine policies there are no stated requirements with which the insured must comply in case of loss. The most highly detailed statement of requirements was embodied in the 1886 edition of the New York Standard Policy. Basically, under any form of policy, the insured is required to (1) give notice of loss, (2) protect the property from further damage, and (3) furnish evidence as to its value and loss. Present-day policies refer to the sworn statement of the insured, usually in a form for which the insurer furnishes a blank, as a proof of loss. The present New York Standard Policy requires (1) notice of loss, (2) protection of property from further damage, (3) separation of damaged and undamaged property, putting in order and inventorying, (4) filing of proof of loss. Special requirements, to be complied with only upon special demand by the insurer are (5) furnishing of verified plans and specifications of any building, fixtures, or machinery, (6) exhibition of remains of any property, (7) submission to examinations under oath, and (8) production for examination of books and records.²

Option to Take, Repair, or Replace Property. In some of the old forms of policies the insurer was obligated "to pay or make good the loss." The insurer's options as stated in the New York Standard Policy are

to take all or any part of the property at its agreed or appraised value, or to rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time on giving notice of its intention so to do within thirty days after the receipt of the proof of loss.

Their exercise is a matter of expediency.

Ordinarily, an option is exercised when the insurer is able to sell the damaged articles more advantageously than the insured, or can replace or repair property at less than it would cost the insured to do so. Insurers

¹ The subjects of this and the preceding section are discussed in detail in Chap. 6.

² These requirements are discussed in detail in Chap. 7.

rarely assume responsibility for the rebuilding or repair of property.

Payment and Discharge. When the amount for which the insurer is liable under the contract has been determined, and all requirements in case of loss have been complied with, the loss is payable. The New York Standard Policy stipulates:

The amount for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Ordinarily, the insured is the person entitled to receive payment and competent to give a receipt that will discharge the insurer from liability. Losses under many policies, however, are by stipulation payable to some third party, such as a mortgagee, and there are situations in which third parties not named in the policy but possessed of an interest in the property may be able to intervene by legal process and require payment in whole or in part to themselves. In some cases the insured will assign to another person his right to collect. While the policy provides that no assignment of the policy itself shall be valid except with the written consent of the company, the provision does not operate as a prohibition against the assignment of a *claim*. If the insured had a valid claim and did assign it, the insurer must recognize the assignee. The insured, however, cannot assign what he did not have, and if the loss is already properly payable to a mortgagee or other payee, the mortgagee or payee is entitled to collect.

Right to Recover from Any Party Responsible for Loss. Losses are often caused by the negligence of persons other than the owners of the property lost, destroyed, or damaged. Following such a loss, the owner acquires a right of action against the person who caused the loss and may sue him for damages. In the language of the law the person causing the loss is a *tortfeasor* or *wrongdoer*. Because of the owner's right to proceed against the wrongdoer, the law holds that, when the insurer pays the owner, the right of the owner passes to the insurer, who may then sue the wrongdoer direct. The insurer is said to be *subrogated* to the right of the insured. In many policies it is stipulated that on payment of loss the insurer is subrogated to any right the insured may have to recover. In the New York Standard Policy the provision is:

This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

Fire, explosion, collision, theft, and the dropping of objects from flying aircraft are perils that are at times brought into action by negligence.

In recent years there has been a decrease in the number of fires due to negligently operated locomotives, but an increase in the number resulting from defective installation or improper operation of electric light and power lines. Insufficient insulation of conductors inside the property served or inadequate protection against the effects of lightning or excess current are examples of defective installation. Mistakes of employees in switching high voltage to lines not designed to carry it are examples of improper operation. A recent conflagration was charged to the arcing of a broken power wire which ignited dry grass adjacent to a residential section.

Lack of care in pumping or otherwise handling inflammable oils is another cause of fires. Drivers of oil trucks will at times make mistakes and run gasoline into the storage tank of a furnace designed to burn fuel oil. When the gasoline reaches the fire box, there will usually be a serious fire.

Fires originate from the careless handling of painters' torches used for burning off old paint and from acetylene torches used for cutting structural steel members or other pieces of metal. Oil refineries allow oil to escape to the waters of rivers or harbors where it ignites and communicates fire to the property of others.

Some losses have resulted from the careless action of municipal employees in setting fire to trash piles when weather or other conditions were such that the flames ignited adjacent property. Litigation has also arisen over fires resulting from failure to extinguish fire in portable forges, from failure to quench embers on removing threshing machines from grain fields, and from the negligent use of steam-threshing apparatus, furnaces requiring extreme heat in their operation, stationary boilers, refuse burners, traction engines, tractors, logging engines, steam rollers, steam shovels, and hoisting engines.

Since the internal-combustion engine has largely supplanted the steam engine in power-driven equipment, smokestack and firebox hazards have in many places disappeared, but there have been substituted the hazards attending the use of oil and gasoline.

If explosion damage is due to negligence, the law imposes liability on the negligent person. A contractor who does blasting must observe the rules laid down by the civil authorities and must not use too much explosive in any one blast or fire his blasts too frequently. If his blasts damage the property of others by flying debris, he will generally be held liable. If his blasting is done according to civil regulations, he will not generally be held liable for damage done by concussion. Producers of gas are often held responsible for explosions due to faulty construction or operation of gas plants, gas holders, or even gas connections in the properties they serve.

If airplane crashes or the dropping of articles are the result of negligence and cause damage, the law imposes liability on the operators of the aircraft. Likewise, the negligent operator of a vehicle who drives it into another vehicle, or into a structure or a lot of personal property such as a lumber pile or a stack of cases containing merchandise, will be held liable.

Liability is, at times, imposed by law on a municipality when the public officials or the police fail to control a riot and property is damaged.

Custodians and bailees are liable for various kinds of damage to property in their possession when such damage is due to their negligence. An incendiary or saboteur is liable for the damage he does.

In some instances the owner of property that has been lost, destroyed, or damaged may have the right to recover his loss from some other person or corporation for reasons other than negligence or willful injury. Law or contract may impose on a bailee responsibility for goods in his possession, or on a lessee, responsibility for the property leased. The owner of property held by such a bailee, or leased to such a lessee, may elect to cover it by insurance for his own account. If he does and after suffering loss collects from his insurer, that insurer may take by assignment the owner's claim against the bailee or lessee. It may be noted here that, while there are frequent assignments of claims against bailees, there are very few against lessees.

A common carrier is responsible for goods in its possession under a bill of lading from the time it receives them until the contract of carriage has been completed (that is, until delivery) or until the expiration of a stipulated time following notice to the consignee that the goods are ready for delivery. The carrier's liability during such period is absolute except in case of loss caused by act of God, a public enemy, the authority of the law, the act or default of the shipper or owner, or natural shrinkage. A bailee

that is not a common carrier may assume liability by express contract or by contract implied by trade custom. In like manner he may contract with the bailor to cover the property by insurance for the benefit of the bailor.

Waiver and Estoppel. It is a principle of law that, although the insurer may not be liable for a loss of which it has received notice, it may make itself liable by acting in a manner that will lead the insured to believe that it intends to *waive* contract conditions and assume liability. Or it may, by its actions, *estop* itself from asserting, in case of litigation, a defense that would prevent the insured from collecting his claim.

Consider a situation in which an insurer has issued a policy covering merchandise stored in warehouse A. After the policy was issued, the insured moved the merchandise to warehouse B, a separate structure, and did not have his policy transferred. Warehouse B burns and the merchandise is destroyed. The insured gives notice of loss to the insurer. The insurer knows at once that it is not liable because the policy does not cover in warehouse B. But if the insurer, in spite of the fact that its policy covers only in warehouse A and with knowledge that the property was destroyed in warehouse B, tells the insured that it will pay the loss, it will have committed a waiver and may be compelled to pay by a suit at law if it later refuses to do so. In similar fashion, if, with full knowledge of the facts, it asked the insured to go to the trouble of inventorying the remains of the merchandise, or incur the expense of having an accountant prepare a statement showing its quantity, cost, or value, the insured might well claim that the insurer, by putting him to trouble or expense, had led him to believe that it intended to pay the loss and had, therefore, waived its rights to stand on the language of the policy limiting its coverage to warehouse A.

Consider another situation in which merchandise is insured by several persons, each of whom has an interest in it. The merchandise is damaged. The loss is reported to each insurer, and each soon learns of the other's insurance. One may be liable for the whole loss, all may be liable, or two or more may be liable as a group. If, under such circumstances, one of the insurers, with full knowledge of the other insurance, took possession of the damaged property and sold it as salvage, it would find it hard to evade liability for the loss. The insured would assert that by its action it had estopped itself from disclaiming liability.

In contract law, which applies to insurance, waivers are classified as *express waivers* and *implied waivers*. If an insurer clearly expresses an intent to waive a defense, it commits an express waiver. If, by putting the insured to trouble or expense, it leads him to believe that it intends to waive a known defense, it commits an implied waiver.

It is the general holding of the courts that the action of an insurer, with knowledge, clearly indicating that it intends to proceed in one way when dealing with a claim, may estop it from later trying to deal with it in another. In all cases of uncertainty as to liability, any insurer who may possibly be involved will desire to investigate the circumstances, determine the amount of loss, and try to establish clearly the facts that will determine liability. In any case, an insurer, while it inquires or investigates, will desire to preserve its rights, so that when inquiry or investigation has been completed it can, if the facts warrant it, refuse to make payment without being charged by the insured that, with knowledge, it has waived its rights or estopped itself from asserting them.

Rights can be preserved and waivers and estoppels prevented by stipulations or agreements that actions taken, information received, or agreements made shall be without prejudice. In connection with marine or inland-marine losses many things are done under written stipulations that they shall be done without prejudice. In fire losses, investigations are made and amounts of loss determined under written *non-waiver* agreements.¹

¹ See Chap. 2

Procedure

Work on a loss begins when the insurer's representative to whom notice of the loss has been given assigns to a particular person or adjustment office the task of adjusting it. On receiving the assignment the adjuster begins an inquiry into the circumstances attending the loss. If he finds these to be in order, he examines the insured's claim, negotiates an agreement with him as to the amount of loss to the property and, in many instances also, as to its value, and then computes the amount to be paid according to the provisions of the policy. When this has been done, he sees that a proof of loss is prepared and executed and in due course forwards the proof, together with any supporting papers and his report, to the office that should receive them. The insurer, in the meantime, will have made an entry of the loss on its records and, as required by law, set up, as a reserve, the amount at which it has been estimated. When papers and report are received, the insurer examines them and, if all is in order, prepares a check or draft in payment and generally forwards it for delivery to the agent or broker through whom the insurance was written. In a relatively small number of losses, the adjuster will find that by reason of contract conditions the insurance is void or does not cover and, in a still smaller number, that there is evidence of fraud on the part of the claimant. He reports to the insurer on such losses, and the insurer, after considering his report, decides what action it will take. In connection with some losses, the adjuster will find that the insured has a right of recovery from a third party. When handling such losses, the adjuster is expected to see that the right is preserved and its existence reported to the insurer so that appropriate action can be taken. If a claim is to be resisted or a right of recovery pursued, the adjuster will be instructed to aid the lawyer who will represent the insurer. ✓

The work of adjusting losses is organized and directed for the purpose of producing adjustments and making payments according to policy provisions in a manner that tends to promote good will on the part of the estimated 96 or 97 per cent of the insuring public who are desirable policyholders; but also in a manner tending to thwart or discourage the occasional criminal or other undesirable character who tries to defraud an insurer. As a by-product, the work is expected to develop information about persons, classes of property, hazards of materials, mechanisms, and processes, and information about the operation of insurance contracts.

Considered from the technical point of view, an adjustment is the legal, evidential, and mathematical working out of the amount for which the insurer is liable under its policy. Considered from the commercial point of view, it is an incident in the business of an insurer that will have an immediate effect upon its bank balance, and a future effect upon its premium receipts because of the emotions of the policyholder and his attitude toward the insurer as a satisfied or dissatisfied customer. Adjusting procedure should, therefore, follow a routine that will bring up for consideration in each loss everything that is essential to the making of a technically correct adjustment, and should follow steps and methods that are understood and accepted by the insuring public and consequently do not produce confusion or arouse antagonism. Delay should be kept at a minimum. Reports to insurers should be comprehensive but concise.

In essentials, the procedure followed in adjusting losses is everywhere the same, with variations in the order and detail of its steps due to varying laws, policies, customs, and local conditions. In any section or locality it is necessary to suit procedure to the circumstances attending individual losses. Property, claimants, and conditions will differ somewhat in each instance. Procedure that in one case will produce a proper adjustment with a minimum of friction or delay will, in another, result disastrously. In every loss there are presented problems of property and contract, and also of human relations. In some losses it will be easy to determine the value of the property and the amount of loss; in others, it will be difficult. In the majority of losses the claimants will be honest and reasonable, but in some they will attempt to perpetrate fraud or will contend for payment of excessive or improper claims. In each case the circumstances and personalities to be dealt with will determine the order and details of procedure,

which must always be flexible so that they can be adapted to any situation that the adjuster is called upon to handle.

The Technical Point of View. The rights and obligations of insured and insurer following the occurrence of loss are fixed partly by law and partly by the stipulations and conditions of the insurance contract. The insured stands in the position of a plaintiff in litigation; the insurer, in that of a defendant. Consequently, there is a marked similarity between the procedures followed in adjusting a loss and in trying a lawsuit. The notice of loss given the insurer by the insured is similar to the summons of a plaintiff; the claim, similar to the complaint. The insured, like the plaintiff, must carry the burden of proof; he must produce evidence that will substantiate his claim. Policies generally provide that the insured must produce, within a given time after loss, certain specially stipulated evidence, such as an inventory of articles of personal property, the insured's affidavit as to time and cause of loss, interest, value, amount of loss, encumbrances, changes in circumstances since commencement of policy, occupancy of premises, and descriptions and schedules in all policies covering the property. In effect, the insured is required to make a statement in writing and under oath of the facts on which he bases his right to make claim, and of the amount of his claim. The insurer has a stipulated period during which it may consider the insured's evidence or proof of loss and call on him to permit examination of any remains of the property or records pertaining to it, or call for special evidence, such as the testimony of the insured under oath or the furnishing of plans and specifications. If there is disagreement as to value or loss, the disagreement may be referred to appraisers or referees in the same way that an issue of fact may be referred to a jury. Following an examination of the insured's evidence, the insurer may accept the claim, criticize it, or reject it, and, if advisable, gather evidence to support its position. There is no obligation resting on the insurer to prove the occurrence or amount of the loss or to take possession of damaged property. Self-interest at times makes it advisable for the insurer to pay for damaged property and take it, but the insured cannot compel such action.

Adjusting Practice. Present-day adjusting practice is businesslike rather than legalistic. Now, a much larger percentage of the population holds policies than formerly, and agents and brokers have advanced to a higher standing in the commercial scheme than they occupied in the early days of insurance. There are far fewer fraudulent losses and inflated claims than

formerly, and any tendency toward sharp practice on the part of adjusters is vigorously discouraged by insurers. The code of ethics of the National Association of Independent Insurance Adjusters obligates the members to make adjustments with judicial impartiality. Company staff adjusters and bureau adjusters are expected to do likewise. Consequently, there is less contest, and more cooperation, between claimant and adjuster today than there was 50 years ago.

The atmosphere of a typical present-day adjustment is like that of any other business transaction of similar importance. The basic legal obligations are observed, but very rarely are they asserted as such. Adjuster, claimant, and producer realize that they are members of a community and, whether they like it or not, must get along with one another. Practice has developed recognized steps which are taken in orderly fashion. In many instances the strict legal order of preparation of claim by the insured and examination and criticism of it by the adjuster give way to arrangements whereby the amount of loss is determined jointly, with much saving of time and generally with a far greater degree of accuracy.

There are still encountered, however, occasional instances in which complication, or evident or suspected fraud, requires a legalistic stand and a searching investigation by the adjuster.

What the Adjuster Should Do. The adjuster should try to make an adequate investigation of each loss assigned to him and a proper adjustment of it. The great majority of losses are small and occur from obvious causes. Such losses do not require intensive investigation of the circumstances attending them nor prolonged negotiations in adjusting the amount that should be paid. There are, however, a large number of losses that call for thorough investigation and careful adjustment.

If the adjuster takes such of the following steps as are necessary in any particular situation, he will finish his work without overlooking essential details and will develop information that will enable him to answer any pertinent questions the insurer may ask him about the loss. The order of the steps should suit the situation. Work done in one step often contributes to what should be done in another.

1. Meet the insured or the person who will act for him in the adjustment, get his story, discuss the loss with him, and make any necessary examination of records in his possession.

2. Examine his policy or policies or, if they cannot easily be produced,

the insurer's, agent's, or broker's record of them; list each policy and get a copy of the form or make an abstract of it.

3. Inspect the scene of the loss and examine any of the property still in evidence.

4. Examine available records or reports covering the occurrence of the loss, those of fire department, patrol or salvage corps, police, weather bureau, coast guard, or private protective service, watchman's clock records, log books, or driver's reports, also any special reports that may be available bearing on time, place, or cause of loss.

5. Examine records or documents, deeds, mortgages, contracts of sale, leases, warehouse receipts, bills of lading, or other written evidence of title, interest, possession, or liability of the insured or of others.

6. Consider whether any insurance held by others should bear the loss or any part of it, also to what extent the representatives of any such insurance should participate in efforts to have the property protected or salvaged, or participate in negotiations of adjustment.

7. If the insurance is not liable for the loss, withdraw from contact with the insured and report to the insurer, or have non-waiver agreement executed before proceeding further.

8. Estimate the situation and the probable results of adjustments made according to the different methods that might be used to determine value and loss.

9. Choose the method of adjustment to be used.

10. Make any necessary preparation for conducting the adjustment according to the method chosen.

11. Negotiate an agreement with the insured as to value and loss, or, failing in efforts to agree, submit the disagreement to appraisal.

12. Check any claim for possible errors and omissions, also for improper inclusion of property, expense, or loss not covered.

13. Apply contract conditions and determine the sum for which any policy, binder, or contract is liable.

14. Develop any necessary information as to mortgagee or other payee interest, or any claim for payment made by a third party.

15. If, because of a question of liability, sound value and amount of loss were fixed under non-waiver agreement, make preliminary report to the insurer and ask for instructions.

16. If no question of liability has arisen, have proof of loss executed for

each policy or contract and forward to insurer with final report and supporting papers.

17. If any salvage has been sold for account of the insurer and proceeds come to hand after the final report has been forwarded, check the account of sales, expenses, and salvor's commission and forward to each insurer the salvor's check for the proportions of the net proceeds that the insurer is entitled to receive.¹

Meeting the Insured. In almost all cases the adjuster should arrange to meet the insured, or the person who will speak for him, through the agent, broker, or other producer. Introduction by the producer helps the adjuster to gain the insured's confidence and cooperation, which he should seek in all cases except when he has reason to believe that the insured is dishonest or unreasonable.

In many losses the insured is a partnership, a group of persons, an association, or a corporation. In such cases the adjuster may meet only one of the interested partners, members, officials, or officers.

The adjuster meets and deals with the insured for several reasons: (1) identifying the insured, (2) learning what he knows and what information he can produce about the loss or any of the circumstances attending it, (3) finding out what kind of person he is, (4) seeing that the requirements of the policy in case of loss are carried out, and (5) making with him the agreements that are necessary to a proper adjustment of the loss.

In many inland-marine and automobile losses, the adjuster meets the insured, gets his story, reduces it to a written statement, and has the insured sign it.

Except in the larger cities, the adjuster ordinarily telephones or calls on the local agent who then goes with him to introduce him to the insured or makes arrangements for the two to meet. In the larger cities, a great number of minor losses are adjusted without any meeting of insured and adjuster, as a broker or public adjuster will act for the insured.

When the adjuster is dealing with reputable persons on the general run of losses that do not present complicated circumstances, it is seldom necessary to ask the insured for anything more than the information required to fill out a proof of loss and complete a routine report, or do more than discuss the loss with him and agree on the amount of it,

¹What the adjuster should do when he finds that there is or may be a right to recover the loss from a third party is outlined under Subrogation, pp. 90-94..

and if the policy contains an average or a coinsurance or contribution clause, to agree on the sound value of the property.

In unusual losses—those that are large or complicated, particularly those attended by circumstances arousing doubt or suspicion as to origin—the insured should be questioned at length and may also be asked to produce witnesses and documentary evidence. He should be asked to identify himself or his organization and give the adjuster his business and insurance history, including an account of any previous losses suffered. He should be asked to state his knowledge, information, or belief as to the time, date, location, and cause of loss. If it is a theft loss or an automobile collision loss, he should be asked whether he reported it promptly to the police. In many instances he will be asked to state the nature and extent of his interest in the property, other interests in it, and whether there is any agreement on the part of another to be responsible for the property or to insure it. If he is in possession of records bearing on the loss, the adjuster should examine them.

In handling fire losses, most of the information needed to complete the *adjuster's loss report*, whether stock-company or mutual form, is developed by questioning the insured and checking his story to the extent that seems advisable.

The adjuster by association, discussion, and negotiation with the insured forms an opinion of his integrity and ability. If the property involved in the loss requires special handling to protect it from further damage, or to make evident the damage that it has suffered, or to determine the amount of the loss, the adjuster's opinion of the insured will be a guide to the degree of supervision that must be exercised over him while the property is being handled.

The policy sets forth requirements in case of loss with which the insured must comply. In many cases he does so with the help of the adjuster. If, for example, temporary covering of holes in a roof is necessary to protect the interior of a building and its contents from further damage, the insured will, in many instances, ask the adjuster to approve the work and, in some, to recommend a repairman competent to handle it. Likewise, the separation and putting in order of personal property, and inventorying it are often done by the insured with the help and advice of the adjuster. In serious situations such work is often done by the insured working with experts employed by the adjuster.

If disagreement arises as to the amount of loss or if circumstances indicate fraud, the adjuster may find it necessary to give the insured notice that an appraisal will be required, or that all books and records must be produced, or that the insured must submit to examination under oath.

Finally, the insured is the person with whom the adjuster must agree as to the amount of loss. In many losses requiring the repair or reconditioning of property, the insured asks the adjuster to agree upon the cost with the builder, painter, cleaner, garageman, or other person who is to do the work, and the adjuster usually finds it advantageous to do so. The insured, however, must ratify any agreement made.

The Insured's Story. The adjuster should get the insured's story, ordinarily at the time of meeting him. The story is in many instances all the information that the adjuster needs before discussing the amount of loss and fixing, or trying to fix, it by agreement. In others it is a guide to investigation and often gives the adjuster indications as to what will be easy and what will be difficult for him in the handling of the loss. In the vast majority of small and moderate-size losses, the attending circumstances are so obvious that the insured's story can be limited to time and cause of loss and the amount he claims. He may say, "I had been smoking and absent-mindedly dropped a burning cigarette butt between the cushion and back of the upholstered chair. It will cost me \$30 to have it repaired." A housewife may tell the adjuster, "I hung some towels too close to the burners on the stove. It will cost me \$5 to get new ones." The owner of a fur coat answers, "I snagged the pocket getting out of a taxicab and the furrier wants \$25 to put the garment in shape." In losses that are unusual in cause, amount, kind of property, nature or extent of damage, or complicated by questions of liability, coverage, apportionment, cancellation, or other circumstances, the insured's story should cover the details.

In some losses, the insured tells his story directly and clearly, covering any circumstance pointed out by the adjuster as necessary to complete it or explain its details. In others, he will ramble and be difficult to understand, confused, reluctant, nervous, or upset. Sometimes the adjuster encounters an attitude of boredom, irritation, resentfulness, or hostility when he asks the insured for his story or questions him in order to develop it or call attention to inconsistencies in it. The insured's story should cover the events and circumstances pertinent to the particular loss.

The New York Standard Fire Policy outlines what the insured's story

must cover in connection with a loss under that type of policy. Lines 100 to 109 of the policy list what the insured must state in his proof of loss. The proof-of-loss blank lists, in addition, what he must state to identify the policy under which he makes claim. Together, the policy and the proof of loss require the insured to tell under oath a story that covers: the identification of himself as the person insured by the policy under which he makes claim and what he knows or believes as to

1. When the loss occurred and what caused it
2. The nature and extent of his interest in the property; what other persons, if any, held interests in it; and what were those interests
3. The actual cash value of each item of the property and the amount of loss or damage to it
4. All encumbrances on the property
5. All other contracts of insurance, whether valid or not, covering any of the property
6. Any changes in the title, use, occupancy, location, possession, or exposures of the property since the issuing of the policy.
7. By whom and for what purpose any building described in the policy and the several parts thereof were occupied at the time of loss and whether it then stood on leased ground.

Some inland-marine policies contain similar requirements; others do not. Automobile policies require nothing comparable to (7) but otherwise parallel fire policies.

The insured's story is comparable to the opening statement made to the jury by the lawyer representing the plaintiff in a suit for damages. He tells the jury the plaintiff's story of what happened, how the plaintiff was injured, or how his property was damaged, and how much the plaintiff demands that the defendant pay him because of what has happened.

Some 40 years ago, the late J. J. Windle, then General Manager of the old Southern Adjustment Bureau, laid down a routine to be followed by his adjusters and prepared a blank for their use which aided them in developing the insured's story and served, when completed, as a report to the insurer in the great majority of losses.

The routine required the adjuster to meet the insured, examine and abstract his policy, or, if more than one was involved, to list them, and ask him the questions raised by sections of the blank referring to the fire,

the occupancy, title, interest, and encumbrances, and any previous fires.¹

In unusual losses, the insured's story, if fully developed by discussion and pertinent questions, will inform the adjuster of what facts the insured will allege and try to prove in order to show that he is entitled to make claim, and what evidence he will offer in support of the amount he expects to ask for.

In some losses it is advisable to get the insured's ideas of value and loss, on how the property should be repaired or reconditioned, or on persons to whom any salvage might be sold to advantage.

Adjusters of fire losses ordinarily do not reduce the insured's story to writing and seldom ask that any part of it be put into the form of a signed statement. Adjusters of inland-marine losses, on the other hand, rarely adjust a loss of more than \$250 without getting the insured's story in writing.

Inspecting and Examining the Property. The adjuster should make an inspection of the premises involved and the surroundings in which the loss occurred. He should examine any part of the insured property that remains to be seen.

In the great majority of losses, the adjuster arrives at the premises, glances around, looks at the damaged property or its remains, discusses the loss with the insured, and makes an adjustment then and there.

In serious losses, however, he may find it advisable to make a thorough inspection of the premises and their environment and carefully examine whatever remains of the property.

In some losses, it may be advisable for inspection to be made by one adjuster and the results reported to another who is to complete the adjustment. In multiple-location risks, chain stores, for example, property located at a distance from headquarters may be destroyed or damaged. The adjuster who inspects it should report to the adjuster who is to make the adjustment with the store management at the headquarters of the chain.

On large or complicated losses, however, many insurers prefer that the local adjuster who inspects the scene of the loss be present at the head office of the insured when settlement is to be discussed, because of his familiarity with local conditions. In these days of rapid transportation, the

¹ See Appendix O.

added expense of getting the local adjuster to the city where adjustment is to be made is relatively small and is ordinarily justified by results.

In truck cargo losses, a truck making a long run may suffer an accident requiring an inspection of the cargo at the scene, after which the truck and cargo will be put in order and the truck will proceed to destination. At destination another inspection may be necessary.

Inspections and examinations made by the adjuster are often participated in by technical experts employed on his initiative or by instruction of the insurer. In unusual situations, it is desirable that such experts make inspections and arrive at conclusions as to cause and extent of loss independently of the adjuster. Such procedure is of prime importance in losses that may become the subject of litigation.

By inspecting the premises or the surroundings in which the loss occurred and examining the property or what remains of it, the adjuster familiarizes himself with the evidence that the environment and the property have to offer. This evidence helps him to identify the property, check compliance with policy conditions, determine what is or is not covered by the policy, investigate the cause of the loss, inform himself as to the condition of the property and the nature and extent of the loss it has suffered, decide what he should ask the insured to do with the property, what he should do himself, and finally, to estimate or determine the value of the property and the amount of the loss.

Identification of the property is ordinarily made by comparing the property and the location in which the adjuster finds it with the description and statement of location in the policy.

Compliance or non-compliance with policy conditions will in many cases be apparent if the provisions of the policy are checked against the character and condition of the property and its surroundings. If the policy describes the property as a dwelling and on inspection the adjuster finds that it is a garage, he will have a case of misrepresentation or mistake to deal with. An automobile described in the policy as a private car may be found to be a taxicab, another case of mistake or misrepresentation. A building described as a barn may be found housing an illicit still. If the still was in the barn at the time the policy was issued, there is a question of misrepresentation; if it was installed later, there is a question of increased hazard. Property warranted as being within 500 feet of a fire hydrant may be found to be much farther away. Trucks used in carrying merchandise

and warranted as being equipped with approved locks, or premises warranted as being protected by approved burglar alarms, may be found to have none. In a few claims, the variation between the insurance and the property will indicate fraud or mistake in procuring or writing the insurance, circumstances which the adjuster should report to the insurer and about which he should express his opinion. For example, a policy may describe the property, a painting or statuette, as the work of an old master and, therefore, an article of great value. Examination may prove it to be a spurious imitation which the owner acquired at small cost and with full knowledge that it was not genuine.

Inspection aids in deciding what and how the insurance covers. By checking the description in the policy against the property, by tracing the boundary lines of any location stated in the policy, and by checking exclusions, the adjuster develops what is and what is not covered.

Part of the work of inspection is directed toward investigating the cause of loss. In many cases, the property itself, in others, its environment, will show unmistakable evidence of what has happened. The occurrence of fire, explosion, windstorm, water damage, collision, riot, burglary, vandalism, or malicious mischief will ordinarily be evidenced by what the adjuster notes when he inspects and examines.

If, when inspecting a frame, shingle-roof dwelling for fire damage, the adjuster finds that the shingles have been burned through in several spots and that there are water marks on the ceiling of the rooms under the spots, he will know that the fire originated from sparks or embers falling on the shingles and that it was extinguished by a hose stream.

In another building, the fire may have been confined to the basement where charred woodwork immediately above the smoke pipe of the heating device will indicate the point of the fire's origin. Measurement may show that the pipe is too close to the woodwork. Warping or discoloration of the pipe itself may indicate that the furnace had been driven too hard.

Occasionally, fraudulent claimants put the family's old garments in a closet and set fire to them in order to raise money on an insurance policy. In the great arson wave of the early 1920s several small-time professionals made a business of furnishing partly burned clothing which could be hung in a closet after a small fire had deliberately been started in it and shown to the adjuster in support of claim. At times, the claimant would bungle his job by not burning enough of the closet before hanging the previously

damaged garments in it, and careful inspection would find burned garments resting against woodwork or plaster that showed no marks of fire or smoke, conditions indicating conclusively the effort to defraud.

Explosion damage is evidenced by shattered glass, broken or displaced masonry, splintered timbers, and widely scattered debris. The intensity of the explosion will be shown by the degree of breakage and the extent of the area over which the debris has been scattered. In leakage or flood losses, inspection of the property enables the adjuster to decide whether the water that caused the loss was rain water, high water, water from supply or service pipes, or water from a sprinkler system. Because of the different provisions in water-damage and sprinkler-leakage policies, identification of the pipe or other container from which the water escaped is essential.

Safes blown open, broken locks, jimmied doors or windows, or holes cut in walls or roofs evidence the breaking and entering of the premises by burglars. It is common to refer to theft or burglary as an inside or outside job depending upon who committed it. If the adjuster is shown the regular keeping place of jewelry or furs that have disappeared and if there are no marks on doors or windows or other parts of the premises indicating forcible entry, he has reason to suspect that the theft was an inside job. On the other hand, a sneak thief may have secreted himself in the premises and after picking up the articles escaped at an opportune time. Marks showing forcible entry indicate an outside job.

The manner in which a collision occurred is often shown by scored, bent, or broken parts of the damaged automobile, their condition evidencing the shape of the object with which the car collided, the severity of the impact, and the direction from which its force was exerted. Whether collision damage is old or new will often be shown by the extent to which rust or road film has covered scratched or scraped fenders or bodywork.

Sometimes the property will show that part of the loss was caused by a peril insured against, but the rest, by one not insured against. Windstorm accompanied by rain may result in the blowing away of part of the roof of a building and the wetting of its interior and the contents of the upper floors by the rain, while at the same time the basement may be flooded and its contents damaged by the backing up of a sewer that is not large enough to carry off the rainfall. Backing up of sewers is a peril not insured against in a windstorm policy.

Evidence indicating willful destruction, damage, or concealment of

property by the insured is, in rare cases, developed by inspection. The fraudulent burning of old clothes in a closet has already been described. Occasionally, the owner of an automobile will run it off the highway and let it fall over a cliff or mountain side, and will leave telltale marks on the roadbed or the barrier along the roadside. After a fire, articles that were dry when the adjuster first saw them may be found wet on a second inspection. In a very troublesome claim handled by the author, identifying marks on cast-iron articles were broken out or beaten off with hammers on the eve of an examination of the property which was to be made by a highly competent expert. The hammer marks were plainly visible, and the brightness of the marks on the metal, and the presence in the dents and scorings of tiny metal fragments almost small enough to be described as particles of dust, showed conclusively that the hammering had been done after the last rain. As the premises were open to the skies, rain would have rusted the broken edges of the cast-iron articles and washed away the tiny fragments that were grouped in and around the hammer marks.

A persistent adjuster in a Middle Western city spent hours checking the apartment of a woman who had reported the theft of a diamond ring. At last, he found it stuffed into the toe of one of her slippers in a clothes closet.

Fire marks along the sides of a gutter into which waste gasoline was discharged daily by an industrial plant connected the discharge of the gasoline with the burning of adjacent property and indicated that the operators of the plant were responsible for the loss.

Inspection and examination inform the adjuster of the condition of the property and the extent of the loss it has suffered. He may find that the property is in evidence and subject to examination. If it is under watch by a patrol or salvage-corps watchman, he will decide whether to keep the watchman on duty or dismiss him. He may find that the property has been completely destroyed, lost, or stolen. He may find it to be in evidence but covered or inaccessible, or that its condition indicates damage that cannot be seen unless the articles are unpacked, separated, or taken apart. Inspection and examination will also show whether the property will suffer further damage if no action is taken to protect it, and they may bring to light evidence of previous damage or of abnormal depreciation.

If he finds that the property has been lost or stolen, the adjuster will decide whether a reward should be offered for its recovery and private detectives or others employed to search for it.

If the property has been damaged and is subject to further damage, he should plan intelligently what action is necessary to prevent further damage. If the property or the damage is hidden, he will direct any necessary exploratory work, such as the removal of debris that prevents examinations of floors, walls, or columns in a building, or the unpacking of merchandise, or the disassembling of a machine or an automobile, so that a thorough examination may be possible. Occasionally the debris is the only evidence from which value and loss can be estimated or determined. If so, the adjuster should see that it is properly examined and, if advisable, photographed before it is disposed of.

When he has the condition of the property and the extent of loss well in mind, he is generally in a position to decide which method of adjustment is best suited to the loss.

The value of the property and the amount of the loss are generally estimated or determined, when the property is in evidence, by inspection and examination. They are often approximated from the appearance of the property or an examination of the debris. Repair costs are estimated by surveying the property and preparing specifications of what must be done, afterward computing the quantities of materials needed, their cost, the hours of labor required, and the labor cost at prevailing wage rates. The value and loss of merchandise are often determined by count, weight, or measurement.

Inspection or examination for the purpose of estimating or determining value and loss is sometimes made independently of the insured, sometimes with him, either before or after he has prepared and presented claim.

Inspection should generally be prompt, but at times it can be advantageously delayed because some losses look their worst immediately upon their occurrence and afterward improve in appearance. Water and smoke damages are notable examples.

A person who enters premises while water is pouring from upper floors through the ceilings and down the walls, drenching everything exposed, will get the impression of a much greater damage than he will get a few days later after the water has run off and the premises have dried.

An exaggerated idea of loss will often be created by smoke. A person entering smoke-filled premises during the progress of a fire will often imagine that serious damage is being done to decorations or contents. A few days later it may be impossible to find even a trace of the smoke,

particularly if the premises have been properly aired. In many instances smoke from a fire dissipates without leaving an appreciable deposit, sometimes leaving less than the usual amount of dust that settles and accumulates in or on the property when the premises are being normally used.

It is therefore advisable in many instances for the adjuster to delay inspecting water or smoke damage until the premises have had time to improve in appearance. If he sees the premises while they look their worst, he may be misled into overestimating the loss when the time comes to make the adjustment.

In case of moderate hail or wind damage to growing crops it is advisable to give the crops a chance to outgrow the effects of a storm before examining them.

Prompt inspection of some losses is made impossible or inadvisable by adverse weather conditions. In rural sections continued rains may result in muddy roads or overflowing streams that will prevent access to the property, while in the North snow may cover the scene of the loss, or ice encrust the property, hiding much that the adjuster should see before taking up the adjustment.

In losses involving buildings of several divisions or a group of buildings, the adjuster can often advantageously prepare himself for making an inspection by studying any map, diagram, or plan of the property that may be available.

Inspection is aided by flashlights, cameras, sectional ladders, and special clothing, boots, and shoes. Tapes, folding rules, and notebooks or pads are necessary to good examination work.

Long experience in making inspections tends to improve an adjuster's judgment. A veteran often possesses the ability to take in at a glance what is indicated by the conditions that he can see.

Records, Witnesses. In important losses it is advisable to read newspaper reports and check fire-department, fire-patrol, salvage-corps, fire-marshal, and police records, also the records of such private protective services as the American District Telegraph, Holmes, Albany Protectives, and others. Any fire report made by one of the various underwriting bodies should be read. Sprinkler-leakage loss reports made by organizations like the New York Fire Insurance Exchange should be read when there is any doubt as to the source from which the water escaped.

Private records such as the disks in a watchman's clock should be checked, and any report made by the insured's own organization should be examined.

In theft losses, police records, the records of any private protective service, and the insured's files should be checked.

In collision losses, police records should be examined.

In all unusual losses and in those that promise to develop subrogation proceedings, available witnesses should be interviewed. At times it is advisable to have them sign statements. Valuable information may be gained by the adjuster from talking with firemen who attended the fire. They can tell him about the reaction of the insured and the condition of the property at the time they reached the scene of the fire and afterward.

Examination and Listing of Policies. The adjuster should usually examine the policy or policies, as by so doing he will familiarize himself with coverage of the insurance. He should note in his file the particulars of the policy, or list in detail the policies, when there are several. A list, besides establishing the total insurance, enables the adjuster to make an apportionment when the loss is adjusted, and to prepare or check proofs of loss without further handling of the policies. In some sections adjusters make it a practice to examine policies before commencing an adjustment; in others, they attach less importance to such an examination. In New York City, for instance, the adjuster closes many losses without even seeing the policy, the local practice being to rely on the insurers' records. A list of policies can often be advantageously made from the records in the office of the local agent or agents who issued them. In the larger adjustment offices where organization provides for division of labor, much examining and listing are done by clerical help, thus saving time for the adjuster.

It is best to list policies in alphabetical order according to names of insurers, as this order affords easy reference to any policy and automatically brings together the policies of each insurer. If there are two or more policies issued by the same insurer, it is well to list them in chronological order according to date of commencement. The list should show policy number, commencement date, expiration date, name of insurer, and amount insured. When there are several items of property, the amount of insurance on each should be shown. The list should also show the name

of the agent who issued each policy, unless the policies were issued by head or branch offices, and it should show any variation in forms, clauses, or permits that may have a bearing on the adjustment.¹

In addition to an abstract of the policy, if only one policy is involved, or a list of policies, if there are several, the adjuster should secure copies of the form or forms under which the insurance covers. In some territories a proof of loss is expected to embody a full copy of the form; in others, only an abstract is required. If the adjuster is to prepare proofs, he will need whatever forms are required by the custom prevailing in his territory. If, on the other hand, proofs are to be prepared by the insured's representative, the adjuster will need only such copies of forms as his own office records require. Adjusters employed by company offices or agencies frequently omit forms from their files, depending on the insurer or agency for information as to coverage or other details whenever needed.

Insurance Held by Others. In connection with property in which there is more than one insurable interest, there may be separate insurance held by some person other than the insured with whom the adjuster is dealing. It is common practice for bailees to insure their liability to bailors, or even to cover the property of bailors by insurance written in the name of the bailee, but for the benefit of the bailor. It is also common practice for finance companies to cover automobiles or other property in which they are interested under policies of their own. Institutions selling on the deferred-payment plan frequently cover their vendor interest in property by insurance of their own. Industrial plants and other businesses frequently cover personal property of officers and employees in their policies, which property is ordinarily also covered by the 10 per cent off-premises extension in the household and personal-property policies held by the officers and employees.

The adjuster should, therefore, inquire into the existence of insurance covering the same property but held by a person other than the insured with whom he is dealing.

Collecting and Recording Information. The adjuster should collect as soon as possible the information he needs to make an adjustment or prepare a report. Such information should be recorded in orderly fashion, (1) to prevent loss of any part of it due to fault of memory and (2), to make it

¹ One of the best of several blanks devised for listing policies appears in Appendix T.

possible for associates of the adjuster, or his employees, to examine his file and learn, at any time he may not be available, where work on the loss stands. While any loss may develop unexpected requirements for special information, the routine information outlined in the following paragraphs should be developed on all important losses and should be recorded by appropriate note or entry on whatever blank or file the adjuster commonly uses, or by special memoranda if the information is unusual.

The Insured. As a matter of identification the adjuster should check the name given by the claimant against the name of the insured appearing on the policy or policies. If it differs in spelling or in any other particular, the difference and the reason for it should be recorded. If a partnership is insured, the identity of the partners should be established and their names listed; if a group of individuals, the individual names; if a corporation, the names of the officers. In connection with a corporation, it is advisable to record the name of the state where it was incorporated.

In the investigation of doubtful or suspicious claims, names of individuals are highly important, as the past history of a person is generally the best obtainable index of his character. If names of individuals are established in the early stages of contact with the insured, they may be matched up with those involved in previous losses or business embarrassments and lead to important discoveries.

It is unnecessary to establish individual names or corporate domicile when inconsequential losses are being adjusted, or when dealing with well-known concerns.

The Loss. The insured should be asked to state his knowledge or belief as to the date, time, place, and cause of loss. His statement should be recorded and afterward checked by the adjuster against any evidence he can find. When he has reached his own conclusion as to how the loss occurred, he should record it.

Occupancy of Premises. The occupancy of the premises where loss occurred should be determined and recorded. In large buildings housing a number of tenants, it is necessary to record only what portion was occupied by the insured and for what purpose, unless the loss originated on the premises of some other tenant, as happens when fire starts in one section of a multiple-occupancy building and spreads to other sections. In this case the name of the other tenant, the location of his premises, and the occupancy should also be recorded.

Title, Interest, and Possession. The title to the property involved should be established, also its possession, and if the insured is not the unconditional and sole owner, the nature and extent of his interest should be determined. If interests other than the insured's exist, they should be listed. Interests of mortgagees or other holders of encumbrances on the property should be recorded by stating the nature of each encumbrance, the name of the person holding it, the amount of the debt at the date of the loss, and the date the debt is due for payment. Any changes in title, interest, or possession since commencement of the policy should be noted. All information gathered as to title, interest, possession, and exposure should be accurately recorded.

Exposures. In connection with a fire or explosion loss, due to external exposure, any change in the exposures of the property since the issuance of the policy should be noted.

Insurance Held by Others. If other persons also hold insurance covering the property, the coverage of such insurance and the terms of any agreement between the insured and others as to the application of such insurance in case of loss should be recorded.

Previous Losses. Companies expect the adjuster to inquire into and report on the insured's past record of losses. The insured should, therefore, be questioned and his statement as to previous losses recorded. His statement should be checked against National Board or other records if the loss is doubtful or suspicious.

Report Blanks or Questionnaires. If the adjuster collects and records the information described in the foregoing sections, he will be able, at the conclusion of an adjustment, to prepare the proof or proofs of loss and also his final report. To facilitate recording the information in an orderly way and at the same time furnish their adjusters with a reminder of what is to be recorded, a number of adjusting offices and organizations have developed printed reports or questionnaires to be used by the adjuster and kept in his file or included with his final papers. The adjuster should train himself to complete his report or questionnaire at the first meeting with the insured, if possible, and also to reduce to writing any information of importance not called for by the questionnaire. By so doing he will escape the embarrassment of neglect, or inability to remember, when need for the information arises.

Liability. As soon as possible, the adjuster must establish the facts that

determine whether the insurer is liable. Answers to the following questions determine liability:

1. Does the person on whose behalf claim is made hold a valid contract of insurance?
2. Does the contract describe the property that was lost, destroyed, or damaged?
3. Did loss occur after commencement and before expiration of the contract?
4. Was the loss caused by the direct action of a peril which was insured against?
5. Did the contract cover at the time and place of loss?
6. Has anything happened since the loss occurred to relieve the insurer from liability?

If the facts that he finds show that the answer to questions 1 to 5 is "yes" and the answer to 6 is "no," the insurer is liable, and it is in order for the adjuster to try to agree with the insured on the value of the property and the amount of loss or damage to it. But if the answer to any of the questions other than 6 is "no" or the answer to that question is "yes," the insurer is not liable, and the adjuster must beware of taking any action that might waive the right of the insurer to claim that the contract was void or estop it from showing that the contract does not cover the property or the loss.

Waiver and Estoppel. The courts have given prominence to the doctrine of *waiver* and the kindred doctrine of *estoppel* when deciding insurance cases. While these doctrines have come from the general law, they have been applied nowhere else with the severity found in decisions dealing with insurance policies. The decisions should be studied so that waiver or estoppel may be avoided. The doctrines play such an important part in the adjuster's work as to warrant some repetition here of what has already been said.¹

Waiver. Waiver is defined as the voluntary relinquishment of a known right. The law recognizes two kinds: express waiver and implied waiver.

If an insurer is informed that a policy under which claim is made is void because the person insured had no insurable interest in the property, it may investigate and find that he and his wife lived in the dwelling described in the policy, that she owned it, and that the policy had been

¹See Chap. 2.

written in the name of the husband by an agent who thought that the husband owned it. In such a case, the insurer may decide to waive its right to declare the policy void and notify the husband that it will pay the loss to the wife. If it does so, it will have made an express waiver.

Waiver may be implied from some act or neglect on the part of the adjuster, as when, by asking for an estimate or other evidence as to amount of loss or by failing to tell the insured that the facts show that the policy is void, he leads him to believe that a known avoidance of the policy, or a forfeiture of right to make claim, will be overlooked and that the claim will be paid.

Estoppel. Estoppel is the legal bar raised by a person's own action against asserting a right that he once possessed, or making a choice that once was open to him. An insurer will be estopped from exercising its option to take all or any part of the property at the agreed or appraised value if it delays its notice to the insured that it intends to do so until after the 30 days provided for in the New York Standard Policy have gone by.

If it has entered into an appraisal and fixed the amount of the loss, the insurer is estopped from exercising its option to repair or replace. If the adjuster executes a written agreement covering value and loss, the company is estopped from questioning it unless there was mutual mistake, fraud, or collusion.

Guarding against Waiver or Estoppel. Because of the consequences, the adjuster should avoid behavior that may imply waiver or create estoppel as carefully as the surgeon tries to avoid infection. The danger of being charged with waiver or estoppel hangs over him in all cases presenting questions of liability. When the facts indicate that the policy is void, that it does not describe the property involved, or that because of the time, place, or cause of loss the contract does not cover it, or because of failure to comply with contract requirements, or for any other reasons, the insured has lost his rights to maintain claim, the adjuster must guard against any act or omission that might warrant the insured in proceeding on the assumption that the insurer has waived its contract conditions or any other defenses and will pay the claim.

When encountering any such situation, the adjuster, as soon as he has knowledge of the facts, should withdraw from contact with the insured and ordinarily have no further dealings with him—particularly, no further negotiations looking toward agreement as to value and loss—and report

the situation to the insurer and await its instructions. Should it be advisable to establish the amount of loss to the property before reporting to the insurer, he should make a written agreement with the insured that no waiver shall be implied from his acts. Such an agreement is frequently made, and is known as a *non-waiver agreement*.¹ Of similar import are the various written stipulations in marine and inland-marine investigations that certain acts are to be without prejudice.

When the facts indicate that the policy is valid and the loss is covered but that the insured must comply with certain requirements in order to prove his loss or perfect his claim, the adjuster must avoid misleading the insured into the belief that the requirements will not be enforced. In some instances it is advisable to put the insured on notice in writing that he will be expected to comply with the requirement or requirements.

Comment on Waiver and Estoppel. A thoughtful loss executive of one of the large company groups asserts that more good defenses are lost to insurers by acts of adjusters who commit waivers or estoppels than are lost in any other way. A reading of the decisions of our appellate courts supports his assertion.

The adjuster is not often interested in the matter of express waiver as he is seldom so rash as to state to the insured, unless instructed to do so, that the insurer will waive the benefits or requirements of the contract, or the defenses it may have against the claim. He is, however, vitally interested in conducting himself so as not to commit an implied waiver or estop the insurer from asserting a right or defense that it may have, or from enforcing a pertinent requirement of its contract.

Questions of liability, coverage, and compliance with requirements in case of loss are encountered in many bona-fide losses and some fraudulent losses.

As a matter of good human relations, the adjuster should promptly point out to a bona-fide claimant anything in the policy that stands between him and what he is trying to collect. If done in a dispassionate manner, it will not ordinarily arouse antagonism. With the situation clearly understood, the way is open to suggest a withdrawal of the claim, or if there are extenuating circumstances, a fixing of the amount under a non-waiver or without-prejudice agreement, and a submission of the facts to the insurer. From time to time bona-fide losses occur that the policy

¹ See Appendix D.

does not cover but that the insurer will, nevertheless, pay on grounds of equity or of business policy. Following such losses it may instruct the adjuster to deny liability, but advise the insured that the claim will be paid *ex gratia*, or without admission of liability, or it may have the policy *re-formed* by proper endorsement so that it will be legally liable. But while it is the privilege of an insurer to make express waivers when it seems expedient to do so, an adjuster is not so privileged and must avoid all acts of waiver except those that the insurer instructs him to perform.

Since the insurer may become a participant in litigation, the adjuster dealing with a loss or claim presenting a question of liability should be doubly careful to avoid acting or speaking in any manner that may give grounds for the imputation of waiver, since a claimant seeking to collect under a policy that is void or that does not cover may charge the adjuster with waiver and later substantiate his charge in court to the adjuster's embarrassment and the insurer's cost.

In some instances, an insurer will know, even before it assigns a loss to an adjuster, that the policy is void or that the coverage is suspended. It can, if it wishes to consider the situation, write the insured that, without prejudice to its rights under the policy, it will send an adjuster to investigate and report, but that it will limit the authority of the adjuster to agreeing with the insured on the facts, and that the adjuster will have no power to bind the insurer to a settlement and no authority to waive policy conditions.

There is uncertainty about what to expect of the courts under the relatively new conditions in policies that declare a suspension of coverage instead of a voidance of the policy under certain circumstances, such as increase of hazard. Perhaps it will be held that the act of an adjuster can, by putting the insured to trouble and expense and misleading him, waive the provision of the policy or estop the company from asserting it as a defense.

The courts are sympathetic toward insurance claimants and are ordinarily ready to declare waivers and estoppels on a minimum of evidence. For this reason, the adjuster must be on his guard constantly.

There has recently been some legislative effort to narrow the grounds of waiver and estoppel. The new insurance code of Kentucky provides:

None of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

- (1) Acknowledgment of the receipt of notice of loss or claims under the policy.
- (2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.
- (3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

It remains to be seen how the courts will construe the provisions.

When Insurance Is Held by Others. When the property described in the policy held by the insured with whom the adjuster is dealing is also described in any policy held by another who may be interested in the property because he has money invested in it, a lien upon it, or is liable for damage to it, the adjuster must establish all facts bearing on the respective liabilities under the policies. Unless the status of each policy is undisputed, he should report the situation to the insurer he is representing before committing it to the assumption of any specific proportion of the loss.

In recent years, fire, inland-marine, and casualty underwriters have adopted, for guidance in adjusting losses under insurance contracts conflicting in terms or overlapping in coverage, a number of Guiding Principles. These are probably still in a fluid state. They have, however, been codified by the National Board of Fire Underwriters. Adjusters can obtain copies from the insurers they represent.

When Facts Indicate Insurer Is Not Liable. If the adjuster finds fraud, he should try to possess himself of conclusive evidence of it and should make prompt report to the insurer. When fraud is suspected, the same course of action is in order, but it must be taken with special care in reporting to avoid making statements that might be libelous should the facts not sustain them.

When there is no liability because of mistakenly written policies, restrictive stipulation, or breach of warranty, or when there is disagreement as to facts, the adjuster must decide whether to terminate dealings with the insured and immediately report his findings to the insurer, or to have the insured execute a non-waiver agreement or a without-prejudice stipulation, and, under protection of that agreement or stipulation, determine the amount of loss, so that a report can be made that will give the insurer comprehensive information about the situation.

Returning to the subject of fraud, it has been the general holding of the courts that fraud on the part of the insured vitiates all rights he would

otherwise have under the insurance contract, and, guided by this holding, adjusters feel that in the face of fraud there can be no waiver and no estoppel. Fraud, however, is a matter of fact and, therefore, a matter of proof. The claimant whose claim is rejected on grounds of fraud may employ a lawyer, sue, present unexpected evidence at the trial, and win a verdict. Because of this possibility, lawyers who represent insurers advise adjusters to refrain from agreeing on value and loss when investigating a claim in which fraud is suspected. If no amount has been agreed upon by the adjuster, it is generally easier for the lawyer defending the insurer to work out a compromise settlement when the evidence as to fraud is not conclusive.

In deciding how to proceed when there is no liability or when there is disagreement as to facts or the meaning of policy conditions, the adjuster should try to visualize what position the insurer will probably take, and act in a manner that will give it the strongest support. If the insurer will probably refuse to consider the claim, the adjuster should withdraw from contact with the insured and report at once; if it will probably offer to make a settlement, the adjuster should establish value and loss under a non-waiver agreement and give the insurer in his report the benefit of knowing the amount of the loss. Consideration must also be given to the condition of the property to determine whether immediate action is necessary to prevent further damage, or the loss is such that it will be the same a month later, no matter what is done. Consideration must also be given to expediency.

In the following situations it is generally advisable to fix the amount of loss under a non-waiver or without-prejudice agreement before reporting to the insurer.

Wrong Person Insured. In some instances a policy will name as the insured a person who has no insurable interest in the property. Insurance of a dwelling in the name of the husband when the title is in the name of the wife, or vice versa, is a typical illustration. If the wrong person has been mistakenly insured and if there is reason to believe that the insurer would have approved the insurance of the right person, the amount of loss should be fixed.

Wrong Property Described. When, in the presentation of claim, it develops that the property involved is not the property described in the policy, it is customary to inquire whether the property is otherwise insured. If it is not,

and investigation develops that an honest mistake has been made, whether mutual or on the part of the insured only, the loss should be fixed if there is reason to believe that the insurer would have accepted coverage of the property involved.

Property at Wrong Location. In many cases the owners of household goods, mercantile or manufacturing equipment, or merchandise will move all or a part of the articles to a new location and fail to have their insurance transferred or amended to cover properly. If there is reason to believe that the insurer would have transferred or extended the policy to cover at the new location, had it been asked to do so, the loss should be fixed before reporting on it.

Suspension of Coverage. When losses occur during an increase of hazard or during a period of vacancy or unoccupancy of premises, the amounts should ordinarily be determined before reporting, unless the increase of hazard is illegal or considerable, or the vacancy or unoccupancy one that evidences abandonment of the property.

Disagreement as to Facts. When there is disagreement over what caused the loss, or what property was intended to be covered, or which policy or set of policies applies, the amount of loss should ordinarily be determined before reporting.

Reports on Unadjusted Losses. If the adjuster finds that he cannot or should not complete an adjustment, as, for example, when he finds that the insurance is void or does not cover, he should report to the insurer or insurers with reasonable promptness. While written reports are generally desirable, many are made by word of mouth, some even by telephone. In New York, when several fire-insurance companies are interested in the same loss, it is customary for them to meet on call of the adjuster so that he can report orally to all at the same time and receive their advice or instructions.

Ordinarily, a report is in order when the adjuster finds that no loss has been sustained, or that a loss has occurred which is not covered by the contract, or that the contract has become void because of breach of condition. In such cases the adjuster is expected to refrain from committing the insurer or insurers to any course of action unless instructed to do so. It is also wise to report on cases of actual or suspected fraud, or even excessive claim, when the insured is difficult to deal with, as in such cases the insurer may elect to cancel the policy without waiting for the adjustment to be

completed. Work on such a case does not necessarily stop, as the report may not call for a reply. While it is not always possible because of the pressure of work, the adjuster should try to report on any loss that he fails to adjust, after his first effort to do so. Clearly written reports forestall much correspondence and criticism.

A report on an unadjusted loss should embody all of the following information:

1. A list of the policies, preferably arranged in alphabetical order by insurers if more than one insurer is interested
2. An abstract of the coverage or copy of the form or forms
3. Date, hour, location, and probable cause of loss, with a presentation of all known facts bearing on cause, if the loss is of doubtful or suspicious origin
4. Estimated or agreed value of property and amount of loss
5. Facts or circumstances affecting liability
6. Anything else of particular or unusual interest

The section of such a report presenting the facts or circumstances bearing on policy violation or other circumstance affecting liability should include a statement of the knowledge and attitude of any agent who may have written the insurance or any part of it. If the insured claims that the policy does not cover as it should, the agent should be asked why he did not write the policy correctly. If the agent denies failure to comply with the insured's instructions, the adjuster should report the denial; if the agent admits being at fault, the adjuster should find out why and report concisely, but fully. In any event, the attitude of any interested agent should be given, whether he intercedes for the insured or feels that the claim should be resisted. In many cases insurers are reluctant to stand on a contract right when to do so would embarrass an agent at fault because of forgetfulness or misunderstanding.

When Facts Indicate Insurer Is Liable. When the adjuster finds that all facts indicate that the insurer is liable, he should adjust the loss on its merits.

Handling of Property after Loss. In most losses, the property requires little special handling. Following most small fires, leakages, breakages, or accidents inside homes, stores, or manufacturing plants, there is not much that needs to be done after the fire has been extinguished, the leakage stopped, or the broken articles picked up. Following fires and leakages it is

often necessary to sweep out or mop up water, to wipe and possibly to grease wet articles or hang or spread them where they will dry. After thefts or accidental loss of articles, nothing more can be done than trying to apprehend the thief and recover them, or searching for them. If an article has been dropped in a drain or has fallen through a crack in the floor of a building, efforts to recover it may be in order. Following outside fires, explosions, windstorms, or other casualties that damage the roofs or walls of buildings and leave them and their contents subject to further damage by rain, cold, heat, wind, dust, or other causes of damage, it may be necessary to cover over or board up openings in the roofs, walls, or broken windows.

In serious losses, the handling of the property may require consideration of emergency measures supplementing the efforts of the public fire departments to extinguish the fire, removal of property to places of safety, making the property safe, determining whether it is fit for further use, preserving it from further damage, making explorations to determine its condition, or what should be done to recover anything of value that has been lost, buried, submerged, or isolated by the perils insured against.

The procedure to be followed in handling the property should be based upon the contractual obligation of the insured to preserve it from further damage and his general legal obligation to see that property which he owns, or for which he is responsible, does not become a menace to persons or to other property.

In rare cases, fire may smolder in valuable property, such as cotton bales or heaps of cotton seed, and defy ordinary fire-fighting efforts to extinguish it. In such cases, the adjuster, if authorized by the insurers, may assist the insured in employing experts or using special equipment to halt the fire. The Underwriters Salvage Company has successfully handled many fire-fighting problems that were beyond the possibilities of the local fire department's equipment.

Personal property, exposed to further damage after fire, windstorm, explosion, leakage, or other peril has involved it or the premises in which it was located, is often removed to a place of safety where, if wet, it can be dried before it mildews, rots, or rusts. When equipped to do so, the insured may make the removal. Otherwise, the services of the Underwriters Salvage Company, or of a competent independent salvor, may be used to advantage.

After being damaged by fire, windstorm, explosion, or flood, a building may be unsafe to enter and may menace passers-by or adjacent property because of weakened or leaning walls that may fall. The local building department may issue a "take down or make safe" order. It is the duty of the owner to take down any dangerous parts of the building or make them safe. Such parts of the expense of doing so as are necessary to the repair of the building are part of the insurance loss. It is, therefore, advisable for the adjuster to keep in touch with the owner and the building department, or have a builder or engineer do so, and try to keep the cost of the work within reasonable limits. Under no circumstances should the adjuster do anything that might be construed as putting responsibility for the work on the insurer.

A stock of foodstuffs or drugs may be damaged, and the local board of health or the United States authorities may embargo the stock and subsequently examine it to determine whether it is fit for human consumption or can be reconditioned so that it will be fit. In such a situation, the adjuster, or a competent expert selected by him or the insured, should attend at all inspections of the authorities and do what he can to prevent unwarranted condemnation, reporting promptly to his principal if he believes that the authorities are making mistakes in their decisions or are acting arbitrarily to the detriment of the insured interest.

Protecting from Further Damage. When he first inspects the property, the adjuster should note any danger of further damage and should discuss with the insured any steps that should be taken to prevent it. If the roof of a building has been burned through or if openings have been cut in it by firemen, rain may cause considerable damage to the interior or to the contents, unless the openings are covered. If the subject of insurance is personal property, wet and threatened with fermentation, mildew, rust, or other kind of further damage, prompt drying and reconditioning will ordinarily save it. In the case of the building, the adjuster should see that the insured promptly makes temporary or permanent repairs; in the case of the personal property, he should see that the insured handles it as its nature requires. If the property is merchandise, it may be advisable to have it sent at once to processors or placed in the hands of a concern such as the Underwriters Salvage Company for removal and better protection. The cargo of a truck, scattered over the roadway following upset or collision, should be picked up, loaded and forwarded, or put under cover as

soon as possible. If the cargo is perishable, the goods should be dispatched to destination or to the nearest salvage market, whichever handling, in the adjuster's opinion, will result in the higher net salvage return. If premises have been left smelling of smoke, it may be advisable to have them treated with one of the smoke-odor removal methods of recent origin.

If the insured has commenced protective measures before the arrival of the adjuster, they should be aided to completion with such improvement or expedition as the adjuster can suggest. While the policy requires the insured to protect the property from further damage, it is, in many cases, well for the adjuster to direct the work. When considerable loss can be prevented or valuable salvage recovered, the adjuster should not hesitate to take entire charge of the work and employ whatever talent or help may be necessary for effective action.¹

Exploratory Work. Occasionally property is damaged and left in a condition that makes it impossible to determine the extent of the damage, or it may be mingled with other property, or lost, buried, or submerged by the perils insured against. Mechanical damage often requires disassembly of the mechanism and sometimes testing of the parts before the extent of the damage is apparent. Different kinds of valuable merchandise are often mixed when the floors in a burning structure collapse, or they may be covered by broken masonry and charred timbers. Until the debris is removed and the merchandise taken out, sorted, and examined, no sound estimate or determination of the loss can be made. Divers may have to be employed to locate property lost as the result of a truck running off a pier. Steam-shovel work may be necessary to uncover property buried in a landslide. Draining or pumping out of basements may be required if they have been flooded and their contents submerged. Sometimes pathways have to be cut to property that has been isolated. Exploratory work necessary to make the condition of property evident should be done by the insured and the cost should become part of the claim. The adjuster should do what he can to have the work done properly and economically.

Recovering Property. Following some losses it is necessary to try to recover the property. When an automobile has gone off the road into a ravine, it must be pulled out. Property dropped into water by the burning

¹ Discussion of methods usually employed to protect a given kind of property will be found in the chapter or sections dealing with that property. See Airkem, Appendix F.

of a pier or the foundering of a barge or lighter may have to be recovered by divers and floating derricks.

When valuable property has been lost or stolen, it is sometimes advisable to offer a reward for its recovery. The finder of lost property is obligated by law to make reasonable efforts to identify the owner and return the property. When property has been stolen or has disappeared under circumstances indicating theft, the adjuster should see to it that the insured reports the circumstances to the police. Stolen automobiles should be reported by the insured to the police and by the adjuster to the Automobile Underwriters Detective Bureau. In advertising for stolen property, the adjuster should avoid language that might suggest any willingness to buy back property from a thief.

The National Board of Fire Underwriters has now taken up the pursuit of professional thieves. It is also making a study of rewards, as in many states officers of the law are forbidden to accept rewards for services in the line of duty. The adjuster should report to the nearest representative of the Board all serious thefts, burglaries, robberies, or hijackings referred to him for investigation and adjustment.

Marine and inland-marine policies ordinarily include a *sue-and-labor clause*. A common wording of that clause is:

In case of loss or damage, it shall be lawful and necessary for the Assured, his or their factors, servants and assigns, to sue, labor, and travel for, in and about the defense, safeguard and recovery of the property insured hereunder, or any part thereof without prejudice to this insurance; nor shall the acts of the Assured or this Company, in recovering, saving and preserving the property insured in case of loss or damage, be considered a waiver or an acceptance of abandonment; to the charge whereof this Company will contribute according to the rate and quantity of the sum herein insured.

Estimating the Situation. In most of the smaller losses the adjuster sees the property, talks with the insured, and knows at once what should be done. Generally, adjuster and insured jointly examine the property, discuss what it will cost to repair it, or what it was worth, if it is an article of personal property that has been destroyed. In some instances, however, the adjuster will tell the insured to have the property repaired or cleaned and submit the bill. In automobile losses the adjuster ordinarily goes over the damaged car with the garageman who is to repair it for the insured, and the two agree upon the parts to be replaced, repaired, or repainted,

and what is to be charged for the work. When woollen goods have been slightly wet or smoked, the insured and the adjuster will often agree that they shall be sent at once to a sponging plant and, after being sponged, shall be examined for damage.

In small losses involving merchandise, the adjuster may instruct the insured to sell damaged articles and account for what he receives; or, if the articles have been lost or destroyed, he may ask the insured to show him the invoice covering their purchase, or the inventory entries evidencing their existence and the value placed on them at inventory date. In serious losses, however, the insured prepares a claim and presents it to the adjuster, who must then decide what method of treating with it will give him the best chance of ending his work with an agreement on proper figures of value and loss. A number of circumstances require consideration: the character, ability, and attitude of the insured; the property involved, what has happened to it, how accurately it can be measured, weighed, or counted, and what can be done to, or with, it to restore it, or to realize whatever value remains in it; what records as to its existence, cost, use, or value are available, and how trustworthy are the records; what general conditions, economic, social, or political, affected the value at the time of loss; what special information is called for by policy conditions. All these circumstances and possibly others must, at times, be considered by the adjuster in estimating the situation and deciding what method of adjustment is best fitted to it.

Determination of Value and Loss. In the work of determining the value of property covered by insurance and the amount of loss that it has suffered, the property itself, or what remains of it, and the space it occupied are accepted as the best evidence. Records showing the cost of the property or containing other pertinent facts relative to it are the next best evidence. The statements of persons who are in possession of information about the property or who are competent to express opinions about it are also evidence. These statements are similar to the testimony of witnesses in the trial of a lawsuit. The form of statement most frequently considered is the estimate of value or damage, or both. An estimate is a statement of the opinion of the maker, who is, or is supposed to be, an expert on the kind of property involved.

As a general rule, the first evidence examined after a loss is the property itself or the place it occupied, unless the property has disappeared, as

when it has been stolen. In most losses the property has been damaged and is in evidence. By comparing its condition after the loss with its known or assumed condition before the loss, an opinion can often be formed as to its value before the loss, the nature and extent of the damage, and the amount of loss. Records bearing on the property may show quantities, costs, age, history, or condition and thus establish the loss with certainty or furnish a basis for an opinion as to its amount. Statements of persons familiar with the property may be taken. These statements may cover matters of fact such as size, weight, quantity, quality, use, or condition, or they may express opinions, as is the case with estimates.

Burden of Proof of Value and Loss. The burden of proving value and loss rests upon the insured who is obligated to produce evidence supporting the amount he claims. His obligation is based upon the principle of law that the plaintiff in any suit must prove his case. If the insured has suffered a mixed loss, that is, a loss part of which is covered by the policy but the rest not covered, the burden of proving the amount covered by the policy also rests upon him. Policies generally contain requirements that make it necessary for the insured to produce specified kinds of evidence bearing on value and loss and to aid the insurer in its efforts to determine each by exhibiting all that remains of the property for examination by the insurer's representative, or by submitting to examination under oath by any person named by the insurer.

Value and loss are generally matters of opinion; only occasionally are they matters of certainty. They are in the great majority of losses fixed by agreement, in a few by appraisal. Basically there are only four ways by which claimants and adjusters approach problems of value and loss in the expectation of reaching an agreement: (1) survey and estimate or determination, (2) acceptance of cost or quantity shown by records, (3) actual repair or replacement, (4) sale of salvage. In case of appraisal, value and loss are fixed after the insured and the insurer have failed to agree.

Survey and Estimate or Determination. The word "survey" is loosely used in the discussion of loss work to mean almost anything from a casual look at property to a most thorough examination during which all pertinent details are recorded for incorporation into a carefully prepared report. When an adjuster looks at a piece of upholstered furniture in which a careless smoker has burned a hole through the covering fabric and thinks that the damage can be repaired for a definite sum, he has made a survey

and estimate. If he counts the undamaged sacks of sugar saved from the collapse of a pier that dumped the rest into the water underneath, and establishes the exact number of sacks that were lost, he has made a survey and a determination. The act of a person going through a damaged building and listing the damages for the purpose of estimating the cost of repairs is a survey. Many surveys of damaged property are made jointly by the representative of the insured and the representative of the insurer. Joint surveys tend to produce agreements on value or loss with less discussion and less loss of time than separate surveys by different persons. In a joint survey the surveyors meet without preconceived opinions and, seeing the same things at the same time, tend to form the same opinions. If surveyors have made separate surveys and are later called upon to reconcile differences, each may feel it necessary to defend his already expressed opinion. A very high development in survey work has been reached in the handling of losses on piers, many of which are damaged by the impact of ships. Surveyors representing insurers and owners meet and examine all items of damage, listing them in terms of repairs necessary to proper restoration but without any attempt to fix the cost. All surveyors sign the survey without prejudice, and the work of repairing can then begin as soon as bids are taken, or material and equipment can be assembled if the work is to be done on a cost-plus basis.

Acceptance of Cost or Quantity as Shown by Records. In connection with some buildings and many lots of fixtures, machinery, or equipment and other personal property, cost or other records will furnish an acceptable basis for fixing value or loss. All stocks of merchandise in the hands of competent holders are covered by financial records showing inventories, purchases, and sales in amounts of money, or quantity records, such as stock books, production sheets, or perpetual inventories. If property is destroyed, the records may be the best evidence to be had of its value.

Repair or Replacement. Some losses are adjusted by having the insured repair or replace the property and account for the cost. If the property is merchandise, the insured may be instructed to refinish, repack, or otherwise recondition it and account for any loss in quantity or deterioration in grade as well as the cost of the work.

Sale of Salvage. In losses involving personal property, the insurer will sometimes exercise its option under the contract to take all or a part at its agreed or appraised value and thereafter sell it as salvage. In some

localities, particularly New York City, the method is slightly varied by having the salvage sold after the sound value has been fixed. The net proceeds are, in such instances, paid to the insured who then makes claim under the insurance for the difference between the original value and the amount received. While the insurer may take salvage under its option or consent to its sale in order to determine its value, the insured cannot force its sale or abandon it to the company.

Appraisal. Appraisals are intended for cases of hopeless disagreement. Occasionally, however, insured and adjuster will “agree to disagree” in friendly fashion and enter into an appraisal in the expectation of having the amount of value and loss fairly determined by competent and disinterested persons.

Methods Used for Fixing Value or Loss. In every loss the insured and the adjuster will seek some method of fixing value or loss that promises to bring about an adjustment. As noted in an experience of some 45 years, the author records the methods that may be used. The adjuster and the insured may:

1. Go over the property together and try to produce an agreed final figure
2. Make or have made for themselves separate estimates, which they will compare and discuss in an effort to reconcile any differences
3. Each select an expert and instruct the two experts to examine the property, or the evidence bearing on it if it has been lost or destroyed, and to try to produce an agreed estimate or determination
4. Prepare or have prepared agreed specifications for repair or replacement and submit these to be bid upon
5. Delegate the determination of amount to a single expert
6. Arrange that the insured will repair or replace the property, frequently on a cost-plus basis under proper check, and account for the cost, then agree upon betterment or depreciation
7. Accept the amount shown by the record of cost of construction or purchase
8. In case of disagreement submit their disagreement to appraisal as provided by the policy
9. Fix the value of any personal property by agreement or appraisal, the insurer paying the insured the value and taking the property for sale as salvage

10. Agree upon the value of any personal property, have the salvage sold, and the proceeds paid to the insured, or

11. *The adjuster* exercises the insurer's option to repair or replace the property

Choice of method should be determined by the nature of property, the kind of loss or damage suffered, the information to be had about the property, the resources, ability, and character of the insured, and the expert advice and services available to the adjuster. Choice is necessarily a matter of judgment and will be influenced by the adjuster's knowledge and experience. Some of the circumstances under which each of the several methods is commonly used are presented in the following paragraphs:

1. *Adjuster and insured go over the property together and try to produce an agreed final figure.* The great majority of small and moderate-sized losses are adjusted by the insured and the adjuster looking at the damage, discussing it, and agreeing on what it amounts to in dollars and cents. A loss may be no more important than the burning of a few towels hanging on a line in a kitchen where they were drying after being washed. Under the household furniture insurance, a claim will be made for the value of the towels. The burning of the towels may have smoked the walls and ceiling of the kitchen. Under the building insurance, claim will be made for cleaning, perhaps painting, the kitchen walls. The adjuster and the housewife will look at the remains of the towels and the smudges on the kitchen walls and generally agree on the loss under the household furniture insurance and the loss under the building insurance.

In rural sections and in the smaller cities, towns, and villages, where many of the property owners and most of the adjusters who cover the territory are sufficiently familiar with the simpler kinds of building construction to estimate its cost accurately, a great number of total fire losses are adjusted by the insured and the adjuster together measuring the area covered by the building, determining or approximating the height and construction, and working out the cost of replacement according to prevailing material and labor costs. Partial losses are adjusted by the two going through the building and agreeing upon what repairs should be made and how much they should cost. Deduction for any depreciation or credit for any betterment that will be effected by replacement or repairs will be discussed and agreed upon.

Many windstorm, theft, and automobile losses are adjusted in the same way.

Even larger losses may be adjusted by use of this method. The insured, working alone or using the help of his employees or the services of a public adjuster, may inventory the contents of his premises and make claim on each article inventoried. Thereafter he or his representative, frequently both, will go over the property with the adjuster, who examines each article listed, or each lot, if there are many articles, checks such figures on the inventory as he finds to be in order, and enters his own figures when he thinks those of the insured are out of order. Sometimes he discusses each inventory figure with the insured or his representative as he reaches it and tries to effect an agreement on proper figures. At other times he goes through the whole inventory, noting his figures wherever they disagree with those of the insured, and discusses only the totals. In many cases the insured will prepare an inventory but omit stating his claim, expecting to discuss the condition of the articles with the adjuster before deciding what amount to claim on each. In still other cases the insured and the adjuster will together make up the inventory, agreeing as they go along on the quantity, value, and damage to be entered for each article. If the loss is one that must be adjusted from books of account, the insured and the adjuster will often go through the books together.

The adjuster should choose this first method only when he is sufficiently well informed about the kind of property involved, or about bookkeeping or accounting, to discuss intelligently with the insured the value of the property and the loss or the damage.

2. *Adjuster and insured make or have made for themselves separate estimates, which they will compare and discuss in an effort to reconcile any differences.* When property of considerable value is involved and when the loss incurred is large, the insured and the adjuster will ordinarily have separate estimates made by experts and will try to agree on value and loss by comparing the estimates, discussing differences, and trying to reconcile them.

When unusual and expensive buildings are destroyed or damaged, the insured and the adjuster usually have estimates made by contractors or builders and, after comparing them and discussing them, come to an agreement. In many cases there will be no great difference in the amounts of the estimates, but in some cases there will be. The degree of difficulty experienced in making an adjustment is generally in direct proportion

to the amount by which the estimates differ. The adjuster, therefore, spends a large part of his time in analyzing and discussing differences. If, in his opinion, the estimate prepared for the insured exceeds the probable cost of rebuilding or making necessary repairs, the adjuster tries to isolate the items in the estimate that he believes to be excessive and to demonstrate that the extent of work stated in the item, or the cost of doing it, is greater than is necessary. If the estimate is properly itemized and shows the quantities and unit costs of the work contemplated, the adjuster should be able to point out any item calling for more work than is necessary, and by making actual measurements show the quantity of material needed and compute the cost of putting it in place. Excessive prices can be demonstrated to be excessive by comparing them with prevailing local prices for materials and labor.

The adjuster often finds it impossible to bring about an adjustment by dealing with the insured alone. In many cases the insured is unfamiliar with methods of making repairs, or the cost of materials or labor, and can only rely on figures given him by his builder. If the property involved is of complicated or expensive construction, the adjuster may himself be uninformed on the cost of materials required for repairs, or on the amount of work that various classes of mechanics can be expected to perform in a given length of time. He must frequently deal with the insured's builder and in many cases will find it wise to have his own builder discuss estimates with the insured's builder. If the estimates differ greatly, it is the common practice to have the two builders meet and try to reconcile them.

If the loss involves unusual articles, expensive furniture, or complicated machinery or merchandise, experts will often be employed and will perform the same kind of service as the builders who are employed on building losses.

Likewise, if a loss must be determined from the showing of complicated books and records, insured and adjuster may both enlist the aid of accountants.

3. *Adjuster and insured may each select an expert and instruct the two experts to examine the property or the evidence bearing on it, if it has been lost or destroyed, and to try to produce an agreed estimate or determination.* On building losses, if competent and reliable builders are used, this method will most often produce an accurate and satisfactory adjustment. It is regularly used in a

number of cities where the relations between the public and the insurers are satisfactory.

On personal-property losses this method is generally productive of equitable adjustments when capable experts are employed. It is most serviceable when the property involved is of such a nature that technical knowledge is needed to estimate its value and to determine the damage it has sustained. In such cases considerable time is saved that would otherwise be expended in acquainting both insured and adjuster with details that both would then have to discuss in order to settle differences of opinion.

This method works well when the loss must be determined from books and records, if competent accountants are selected to produce the figures.

4. *Adjuster and insured may prepare or have prepared agreed specifications for repair or replacement and submit these to be bid upon.* On losses involving damaged buildings this method will generally produce highly satisfactory results, particularly where, after general specifications have been agreed upon by insured and adjuster, a competent builder or architect prepares detailed specifications.

On personal property this method is seldom used except in connection with small claims. In these the adjuster will look at the articles and ask the insured to have a repairman submit a price for such repairs as insured and adjuster agree are necessary.

5. *Adjuster and insured delegate the determination of amount to a single expert.* This method is rarely used and is unsafe, because even the most reliable experts will occasionally make serious errors when working alone. This method puts too much responsibility on the expert, who may overlook necessary items or make miscalculations detrimental to the insured or to the insurer.

6. *Adjuster and insured arrange for the insured to repair or replace the property, frequently on a cost-plus basis under proper check, and account for the cost; then agree upon betterment or depreciation.* While the adjuster may properly recommend contractors or other repairmen known by him to be trustworthy and competent, he must see to it that the insured assumes responsibility in completing arrangements for actual repairs. This will tend to eliminate the insurer from any argument as to the manner in which repairs are completed if the insured is dissatisfied, and will prevent the insurer from being held liable for any injuries to persons or property that may occur while repairs are being made.

This method of adjustment is frequently used in connection with small losses when the adjuster is satisfied that the claimant and the repairman can be relied upon to confine the work to restoration of the actual damage and to keep the cost within a fair price for the work. It will accurately determine the amount of loss and, while its use is generally confined to losses of small amount and losses in which temporary repairs would otherwise have to be made, it is particularly serviceable under the following conditions:

a. Lightning damage. When a chimney or other piece of masonry work has been damaged by lightning, it is frequently impossible to determine how far the cracks extend until after the material of the surface courses has been cleared away. A contractor will generally overestimate the cost of repairing such damage in order to protect himself against the contingency of finding that more work is necessary than the appearance of the masonry indicates.

b. Superior or unusual construction. This method may be used advantageously on losses involving fire-resistive or other unusual construction. With fire-resistive construction it is frequently necessary to cut away masonry and take out and replace damaged steel members. As it is exceedingly difficult to estimate with accuracy the cost of such operations, estimates will generally contain liberal allowances for contingencies that may not develop when the work is done. If a loss is settled on an estimated figure, and the work is then contracted for by the owner on the basis of the estimate, the builder may make an abnormal profit on it. If, however, after the loss is settled, the insured contracts to have the repair work done on a time-and-material basis, any saving will go into his own pocket. There may be so little repair-cost data obtainable on unusual construction that estimates of the cost of repairing it will be unreliable.

c. Losses in shafts of buildings. Losses involving damage to wiring and piping in shafts of buildings should be adjusted by this method. Nothing but an actual taking out and replacement of the injured pipes, conduits, and wiring will determine what has to be done. Estimates in such cases are almost always valueless.

d. Losses of concerns that maintain their own repair forces. Excellent results are also obtained by using this method in adjusting losses with large concerns that maintain their own repair forces and are, therefore, able to make repairs at less than average cost. With such concerns this method should be used freely.

e. Machines and machinery. This method is now used with great effectiveness in handling losses involving the dismantling, examination, and repair of complicated machines and electrical equipment, losses which can rarely be estimated with any degree of accuracy owing to the various contingencies that may be encountered during repair. Typesetting machines, steam turbines, generators, and telephone-switchboard equipment are examples of property on which the amount of loss can seldom be estimated with accuracy and which when damaged should ordinarily be repaired under check.

7. *Adjuster and insured accept the amount shown by the record of cost of construction or purchase.* It is seldom possible to use this method on building losses because comparatively few buildings burn at a time when the record of their cost can be located. If this method is used, the adjuster must be careful to check the cost account and eliminate items of expense that will be unnecessary if the building is rebuilt. This method cannot always be used with safety. The cost of erecting the building may have been excessive or there may have been changes in prices, and there are times when reliable contractors can be found who will undertake to replace at less than the original cost.

On stocks of merchandise burned too badly to be inventoried, the books of account are almost always accepted.

On other personal-property losses the use of this method will generally produce accurate results if the property is comparatively new. In the case of property bought over a period of time, it will be necessary to allow for price changes and for inaccuracies in the record itself. Thus the invoice covering a new machine, destroyed in a receiving room before it was even unpacked, would be a conclusive record of its cost; but a machinery account extending over a period of 10 years might not give proper credit for machines scrapped, or otherwise disposed of, and therefore would not correctly show the cost of the machinery in the plant at the time of the fire.

The purchase price of property is not always indicative of its actual cash value to a purchaser who has insured it. He may have paid too much for it. On the other hand, he may have bought it at a forced sale or under conditions that enabled him to get it for much less than its value; if so, he cannot be deprived in an adjustment of the benefit of his bargain.

8. *In case of disagreement the adjuster and the insured submit their disagreements*

to appraisal as provided by the policy. This method is generally used following a disagreement between the adjuster and the claimant. In some sections of the country building losses are at times appraised without any real effort to effect an adjustment by estimate and agreement before commencing the appraisal. The use of appraisal proceedings in these cases is really a variation of method 3,¹ and the results obtained are generally satisfactory. Personal-property, rent, leasehold, or business-interruption losses are seldom adjusted by this method unless it is utterly impossible for the insured and the adjuster to agree. Following a real disagreement, an appraisal is ordinarily the alternative to litigation and is generally preferred by the insurer if the determination of value or loss is the only question at issue in a loss that is bona fide and otherwise in order.

9. *Adjuster and insured fix the value of any personal property by agreement or appraisal, the insurer paying the insured the value and taking the property for sale as salvage.* The adjuster may exercise the company's option to take all or any part of the articles on which claim is made, obligating the company to pay the insured their agreed or appraised value.

The use of this method is generally confined to the adjustment of losses on stocks of merchandise. It is occasionally employed to dispose of controversies over damages to rugs or articles of household furniture. Its use should be avoided unless it promises a favorable result.

10. *Adjuster and insured agree upon the value of any personal property, have the salvage sold, and the proceeds paid to the insured.* The adjuster may agree with the insured on the sound value of the property and also agree that the salvage shall be sold and the net proceeds paid the insured as a credit against the loss, which remains unadjusted until the insured receives the net proceeds. Method 10 is a modification of method 9.

In case of inadequate insurance under policies containing coinsurance or contribution clauses, method 10 is particularly useful as under it an exact figure of loss is produced which can be used in computing the liability of the insurer. Method 9 is cumbersome to use in such a case.

11. *The adjuster exercises the insurer's option to repair or replace the property.* This method of adjustment is seldom used except for very small losses; if it should be chosen in connection with a sizable loss, the adjuster should see that the insured files his proof of loss before the repair or the replacement is made. When the work has been completed, the contractor or

¹ See p. 76.

repairman employed by the adjuster should have the property inspected by the insured and the repairs or replacements accepted, taking from the insured as evidence of acceptance a certificate of satisfaction, commonly called a *satisfaction piece*.¹

The proof of loss, the satisfaction piece, and the bill of the contractor or repairman, approved by the adjuster for payment if it is in order, should be sent to the insurer, who then pays the contractor or repairman direct. The option to repair or replace is exercised more often in inland-marine losses than in fire losses. Insurers are not liable for repair bills unless the work has been authorized by a representative.

Insurers are fearful of exercising this option because the insured may be dissatisfied with the repairs after they have been completed, or with the replacement that has been made, and may refuse to accept the one or the other, putting the insurer in the position of a defendant in a controversy over specific performance. Furthermore, the general holding of the courts has been that, when an insurer elects to repair or replace, it enters into a new contract with the insured under which its liability is unlimited. It may be required to spend whatever is necessary to complete the operation, regardless of the amount of the policy or any limitation clauses in it.

There are, however, occasional situations in which two or more persons, separately insured, try to collect the same loss from their respective insurers. In such a situation, a proposal made jointly by the interested insurers to repair or replace with no cash payment to any insured may bring about a conciliatory attitude. Only as a last resort should the option be exercised. If it is, the adjuster should require a guarantee and a bond from the contractor before any structural or mechanical work is started, or equivalent documents from any supplier or reconditioner of merchandise or other personal property.

Preparation for Adjustment. No preparation is necessary in handling the great majority of small or moderate-sized losses. The adjuster's general knowledge of property and insurance contracts is sufficient to warrant efforts to agree on an amount of loss when he first meets the insured. If unsuccessful, he may find it necessary to meet with the insured again, and before doing so, prepare himself.

In serious losses, preparation is essential, as, lacking information and

¹ See Appendix L.

evidence, the adjuster will not be able to hold his own in discussions with the insured or to make intelligent decisions.

In claim adjusting there is one simple idea which is not always kept in mind, to "get the facts." Discussion of a claim with half the facts, or only a portion, is fruitless. Argument over such a claim, which in effect becomes a discussion of the facts rather than the theory, leads nowhere. But once get all the facts and nine-tenths of all discussion and arguments are made completely unnecessary because the facts speak for themselves and the pertinent theories become patent.¹

The amount for which the insurer is liable depends upon (1) the loss or damage to the property or other subject matter covered, (2) its sound value, if coinsurance or contribution is involved, (3) the interest of the insured, and (4) the terms of the insurance contract.

The amount of loss or damage is generally the most important factor in the adjustment. Sound value is material if insurance carried is insufficient to fulfill coinsurance or contribution requirements. Value and loss are almost always matters of opinion and must be fixed by agreement between adjuster and insured, or by appraisal. The interest of the insured and the terms of the insurance contract are matters of fact and can be established by investigation.

The objective of adjustment negotiations is a final agreement upon an amount that fairly represents the liability of the insurer. To reach the final agreement it is necessary to make a preliminary agreement as to the amount of loss or damage and of sound value, if material; also, to agree upon how the insured's interest affects his loss, the meanings of the terms of the insurance contract, and the result in dollars and cents when they are mathematically applied.

Adjustment negotiations are easy or difficult according to (1) the certainty or uncertainty of the facts as to the property, cause of loss, and interest of the insured, (2) the integrity, ability, and attitude of the insured, and (3) the clarity or ambiguity of the terms of the insurance. The adjuster must, therefore, prepare himself with information, evidence, and argument that will prove facts and influence feelings.

Preparation includes searching for information and evidence and plan-

¹ Statement by Samuel Gore, Manager of the Loss Department of the American Marine Insurance Syndicates.

ning how to use most effectively whatever may be found. The scope and detail of the adjuster's search will be determined by the method of adjustment he chooses. What he develops must be made available for use. Documents and exhibits should be arranged in orderly fashion so that they may be found easily. Whatever is developed should be studied for its probable effect when used in adjustment negotiations: Will it be accepted by the insured as proof? Will it justify an inference? Will it impress the insured in a way that will make him easier to deal with? The adjuster should also consider how any material should be presented or used. Should it be handled by the adjuster, or by the expert, if one is acting? The time, place, and manner of use or presentation should be planned.

Most of the work of preparation is devoted to amount of loss, much to sound value. It is rarely necessary to prepare on the subject of the insured's interest except in connection with bailee losses. Considerable preparation is necessary in losses involving nonconcurrent or overlapping policies or those presenting questions of cancellation or cancellation and substitution.

Value or loss may present questions that the adjuster should prepare for by

1. Considering the insured's story and familiarizing himself with any estimate, inventory, or statement prepared by the insured
2. Surveying and examining any property in evidence, or the remains of the property, noting if it is in evidence, what it is, its condition; its measurements and construction if it is a building; its count, weight, or measurement if it is merchandise; its character if it is equipment
3. Examining the books or records showing acquisition, cost, or use
4. Having the property examined by an expert competent to pass upon its value, the damage to it, the way it should be repaired or reconditioned and the cost of the work, or its salvage value and how it should be handled and sold in order to realize that value
5. Having the books and records examined by an accountant
6. Having a market survey made by an expert
7. Tracing the history of the property, or having it traced

Loss not covered is, at times, responsible for disagreement and controversy.

In connection with uninsurable property, excepted property, property otherwise insured, and property of a kind or at a location not described, preparation is ordinarily made by studying any claim or preliminary

statement furnished by the insured, isolating the property not covered, and noting the general reason or the specific language in the contract that governs the situation.

In connection with loss caused wholly or partly by a peril not insured against, preparation should include study of the scene of the loss, or of the property, or the remains of it, with notations; also study of any records, public or private, bearing on the situation, weather-bureau or flood-gauge records, for example, (1) in simple situations, by the adjuster, (2) in complicated situations, by the adjuster and an expert.

In connection with loss that the adjuster has reason to believe occurred prior to the date of the fire or other casualty, the preparation outlined in the immediately preceding paragraph should be supplemented by development of the history of the property.¹

The *interest of the insured* may be a matter of record, as he may hold a deed to the property or a mortgage on it; or he may hold or may have given a contract of sale, a contract for title, or a bond for title to the property, if it is real property; or a bill of sale, a lease-sale agreement, a warehouse receipt, a bill of lading, or some other document, if it is personal. His interest may arise because of the death of an ancestor who left no will, or because of a custom of trade or manufacture generally accepted as governing the responsibility of the custodian who is holding property for sale or for processing.

Preparation for discussion of the insured's interest and how it affects the amount for which the insurer is liable may include:

1. Examining and copying or abstracting the documents establishing the interest
2. Taking the statements of persons who are acquainted with the facts, or
3. Interviewing trade authorities and learning the prevailing custom in the particular trade or industry

The *terms of the insurance contract* ordinarily speak for themselves. When the insured asserts that the insurance does not cover as he intended, it is advisable to interview the producer and, at times, examine his records and take his statement in writing. When a question of cancellation before

¹ Discussion of the specific preparation that should be made on losses involving various kinds of property or rights of possession ordinarily covered by insurance will be found in Chaps. 9 to 12 and 15.

loss arises, preparation should be made as indicated in the sections dealing with investigation.¹

Claimants may need sympathetic, instructive, or decisive handling. The adjuster should decide whether he, or his expert, should undertake the task. It is well to consider the record of the claimant and prepare for negotiations with him by listing any previous losses and, if advisable, arranging for the person who handled them, the adjuster or the expert, to confront him.

Adjustment Negotiations. In a large percentage of losses, there are differences of opinion as to amount, which the adjuster tries to reconcile by presenting his information and evidence, listening to the insured, arguing with him, telling him about other losses, or appealing to his feelings as the situation indicates. If a thorough discussion fails to bring about agreement, the adjuster may find it in order to leave the insured to think the situation over and resume negotiations at a later date. As an alternative, it may be advisable to ask for an appraisal or reference without delay. In some instances, the adjuster should refer the insured to the policy requirements and call upon him to file formal proof of loss and press the claim according to his own judgment, breaking off negotiations until after proof has been filed.²

Check of Claim. Claims may be prepared in great detail before there is any discussion of value and loss, or prepared afterward and based upon agreements made in negotiations of adjustment. Regardless of when it was prepared, a claim should be checked before computing the amount for which the insurer is liable by applying any limitation or contribution conditions, or making an apportionment.

Computation of Liability of Insurer. When value and loss have been fixed by agreement, or by appraisal or reference, and all figures have been checked, the amount for which the insurer is liable should be computed by working out the application of any limitation clause and making an apportionment if more than one policy or binder is involved.³

Mortgagee and Payee Information. Any proof of loss prepared by or submitted to the adjuster for presentation to the insurer should include the name of the payee designated in any mortgagee or loss-payable clause

¹ See Chap. 4.

² This statement is quite general. The subject is presented in detail in Chap. 18.

³ See Chap. 6.

attached to the policy, and should also show his interest. Whenever mortgagee or other interests exist in property covered by insurance containing no mortgagee or loss-payable clause, the adjuster should place the information concerning the mortgage or circumstance creating the interest before the insurer, as it may be wise for the payment to be made jointly to the insured and the mortgagee or other interested person. Sometimes it develops that, since the issuance of the policy, there has been a change in the mortgagee or the payee interest, and the change has not been endorsed on the policy. In such cases the adjuster should report clearly on the change and, if the original mortgagee or payee can be reached, the adjuster should have him address a letter to the agent or the insurer authorizing reformation of the policy and payment to the new mortgagee or payee.

At times lien holders or other creditors file claims against the insured and attach or garnishee the insurance during the course of an adjustment. In such instances, the adjuster should list in his report all attachments or garnishments so that the insurer may take steps to protect its interest when making payment.¹

Final Papers. When an adjustment has been completed, the adjuster should prepare without delay the papers necessary to evidence it and present it properly to the insurer's loss department, or to the official on whom falls the duty of checking details and making payment. Throughout most of the country the adjuster, when he completes an adjustment, prepares the *proof of loss*, which the insured executes by signing and swearing to before a notary public. Generally the adjuster prepares a *statement of loss* which he writes or has typed on the proof of loss, or on a sheet of paper which he pastes on the proof. Thereafter, the executed proof becomes one of the several papers he sends the insurer to warrant payment of the claim. To support the proof of loss, the adjuster encloses with it the estimate, schedule, or other original figures on which the adjustment was based. When more than one insurer is interested, it is customary to send any schedules, estimates, or other original figures to the insurer that carries the largest amount of insurance. On many of the multiple-company losses adjusted by the company-owned bureaus, details are filed with departmental or head offices of the bureaus.

It has been the custom in New York City for the broker or public ad-

¹ See Chap. 8.

juster to prepare the proof and secure its execution, afterward delivering it to the adjuster, or filing it with the insurer or with the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, according to circumstances. Recently, this custom has been falling into disuse, and more and more the procedure in New York City has tended to pattern itself on that followed elsewhere in the United States. In handling New York City losses, many adjusters do not use statements of loss but explain in a letter, or show by notations on the estimate or schedule, that they send to the insurer with the proof, how the adjustment was made. It is common practice in New York City for the adjuster to endorse over his signature on the proof itself his approval of the amount to be paid, particularly if he is a salaried staff employee of an insurer. In many New York City losses involving several insurers, each of which employs a salaried staff adjuster, it is agreed that the adjuster employed by the insurer carrying the largest amount of insurance will adjust the loss. In such losses, the adjuster will ordinarily endorse the proof of loss for his own company "approved for payment of \$." but will endorse the proofs for the other companies "approved as to amount of loss \$. . . . , only." Under the practice of the Committee on Losses and Adjustments, the adjuster fixes values and loss and reports these and the facts he has established to the Committee. The broker or public adjuster then prepares proofs of loss and files them with the Committee, at the same time submitting the policies to the Committee for examination. The Committee checks the proofs and policies against the adjuster's reports and against independently assembled information and, if everything is in order, forwards the proofs to the respective insurers with a report prepared in the Committee's office.

The adjuster's letter or form report embodying his findings and recommendations should be in keeping with the method of reporting customarily followed by adjusters operating in the territory where the loss occurred. A report should summarize the adjustment by stating separately for each item the agreed value, loss, and amount of insurance. In important losses, the identity, financial condition, reputation, and history of the insured should be given, with individual names of persons making up groups, or those of partners or corporation officers. Any history should include a statement of previous losses or business reverses. The report should describe the risk, its construction and occupancy, and the portions

occupied by the insured. It should give the time, location, and cause of loss and should describe how and to what degree the property was damaged. When reporting on fire losses, damage to the property should be described so that the underwriter will know whether fire, heat, smoke, water, or falling debris was the principal cause of loss. Any circumstances justifying suspicion as to the honesty of the loss, anything unusual, or anything indicating that subrogation proceedings are justified, should be reported. The claim and its adjustment should be discussed, with an account of the actions of the insured or his representative. Comment on insurance features, conclusions, and recommendations to the underwriters relative to the desirability of continuing coverage because of moral or physical conditions will then make the report complete.

Since the great windstorm of Nov. 25, 1950, there has developed a tendency to abandon reports on ordinary trivial or small losses, accepting the adjuster's signed endorsement of the amount to be paid on the proof of loss as sufficient. If reports are made on such losses, they should be brief. At least one adjustment organization uses a printed report blank for information and recommendation to companies in ordinary cases.¹

Some insurers look with disfavor on abandoning or curtailing reports on small losses, taking the position that information furnished them about undesirable conditions in small losses may enable them to take steps to have the conditions corrected or to relieve themselves of liability, and thus avoid future loss.

One prominent adjustment organization pursues the policy of making no recommendations. The author believes that in doing so it is abdicating one of the important functions of the adjuster.

A report letter enclosing a proof of loss that embodies a properly prepared statement of loss does not require a lengthy discussion of the adjustment. It should, however, always give a brief account of what happened in the adjustment, what were the insured's demands, what were the adjuster's original figures, and how agreement was finally effected. The bare statement of loss does not always tell the whole story.

A report letter to the Committee on Losses and Adjustments of the New York Board of Fire Underwriters covering a New York City loss is expected to incorporate figures and give an account of the negotiations by which agreement as to value and loss was reached.

¹ See Chap. 4.

The great majority of stock companies contribute information to the Actuarial Bureau of the National Board of Fire Underwriters. To provide for recording the necessary data in convenient confidential form the Adjuster's Loss Report is used, blank copies being furnished any established adjuster on request.¹ These reports are to be completed by the adjusters on all fire losses in excess of \$50 and forwarded with the final papers.

Many mutual companies contribute their information to the Loss Research Division of the Mutual Loss Research Bureau and, therefore, supply adjusters with an Adjuster's Confidential Loss Report to be filed on all fire losses in excess of \$100, or on any loss where the origin is suspicious, the risk undesirable, or where difficulties arose in adjustment.²

When a loss is handled under a policy written by underwriters at Lloyd's and containing a warranty to the effect that a designated insurer shall carry a stipulated amount of insurance on the same property at the same rate and under the same form, the adjuster's final papers should include a warranty certificate. If possible, the certificate should be written on the letterhead of the designated insurer and should be signed by one of its officers or officials whose name is imprinted on the letterhead. In some cases, the certificate may be based upon the adjuster's examination of the designated policy and, if so, may be prepared and signed by him.³

If the adjuster is compensated on a fee basis, his bill for services and expenses, accompanied by proper vouchers for amounts paid for the services of builders or other experts or helpers, should be forwarded with the report. While in some cases billing must be delayed, promptness should be the rule. In some communities, New York City being one, the adjusters do not pay adjustment expenses such as those just described but have them billed direct to the insurers involved. The adjuster receives the bills, notes on them his approval for payment, and forwards them with his own bill. It is everywhere customary to prorate adjustment expense, when more than one insurer is interested, according to insurance involved; occasionally, according to loss paid. A prorated bill against each insurer is necessary.

Field men and staff adjusters who may be charged with the duty of

¹ See Appendix. N.

² See Appendix N.

³ See Appendix Q.

paying losses are ordinarily furnished with blank drafts and are expected to attach a stub or copy of the draft to final papers forwarded to the insurer. They use similar drafts to pay expenses.

Dispatching Papers. The adjuster should systematize his work so that ordinarily he will complete the necessary papers immediately after making an adjustment and deliver them by mail or otherwise with the greatest possible dispatch. While occasionally the completion of papers connected with a loss must be subordinated to other pressing matters, delay should be avoided. The insurer's representative in charge of losses must receive and examine the papers before the claim is paid. Under present practice very few payments are withheld for the 60-day period that the policy allows after the filing of proof of loss. Consequently, the public and the producers expect prompt payment when a loss has been adjusted, and delay tends to cause irritation. If the delay is due to the adjuster's failure to complete and deliver the necessary papers, he should expect criticism. If, as often happens, the insured begins to make repairs or replacements immediately after the adjustment, he may be dependent upon the insurance money to pay his bills. Any delay in receiving it may prove embarrassing to him and will generally lead him to complain to the agent or broker, who in turn will complain to the insurer. If the delay is chargeable to the adjuster, he may be blamed, not only by the agent or broker but also by the insurer, as he may have disturbed business relations that the insurer has built up, possibly by years of effort and expense.

Subrogation. The subrogation feature of the insurance contract makes it part of the adjuster's duty to establish and preserve any right of recovery the insured may have against any party, so that the insurer will have the best possible chance of securing reimbursement after it has paid the loss. Rights of recovery are of two kinds: (1) those arising out of damage done the insured's property by the wrongful act of another and (2) those arising out of a contractual relation between the insured and a person who is charged with responsibility for the insured's property. In losses where rights of the first kind are indicated by the facts, the adjuster should, in the important ones, promptly notify the insurer which may wish to have an attorney take over investigation even before adjustment has been made.

The following is from a letter written by Frank L. Erion, of Chicago, a very able adjuster:

My experience has been that not many adjusters realize the importance of gathering and retaining every scrap of evidence; therefore, it has been the practice of this office to report immediately any possibility of recovery under subrogation and ask the companies to name the attorney they wish to handle the matter, then we get the attorney into the case while all the evidence is fresh, and thus avoid the possibility of the adjuster overlooking some minor though important factor.

In losses of the second kind, it is ordinarily advisable to do no more than agree upon value and loss before reporting to the insurer and asking for instructions. Rights of the first kind properly call for the services of attorneys because suit against the wrongdoer is often necessary. Rights of the second kind can often be handled by an adjuster because the person responsible for the insured's property will carry insurance protecting his liability, and settlement becomes a matter of negotiation between insurers.

Investigation and Report. When the adjuster learns of anything indicating responsibility of a third party for the insured's loss, he should promptly warn the insured not to make any settlement with the party unless the party is willing to pay the full loss, and the insured is prepared to release the insurer; or, the terms of the settlement have been approved by the insurer. In many cases a wrongdoer will offer to pay the insured for the part of his loss not covered by the insurance and will try to evade responsibility for the rest of it. The adjuster should explain to the insured that any release of a wrongdoer without the consent of the insurer will justify the insurer in refusing to pay the insured, as the release will deprive the insurer of its right to recover its own loss.

When all evidence has been gathered, a summary of it should go to the insurer with a report giving the adjuster's opinion of what may reasonably be expected in the way of a recovery. His work should be done with sufficient thoroughness to enable him to recommend pressing claim against the wrongdoer or abandoning it, according to evidence in hand and the financial condition of the wrongdoer.¹

If preliminary investigation convinces the adjuster that the wrongdoer should be called to account, the wrongdoer should be invited to participate in the adjustment, so that he may have some part in determining the amount for which he may later be sued. If he accepts the invitation, the contact may bring about a settlement. If he refuses, his action will generally affect him adversely if the case is heard by a jury.

¹ See p. 162.

Subrogation, Trust, or Loan Receipt. When the adjuster has developed evidence indicating that the loss may be recoverable from a tort-feasor, he should recommend to the insurer that at the time of making payment it take from the insured a subrogation receipt.

When the evidence justifies him in believing that a third party, such as a carrier or other bailee or a lessee, is responsible for the loss because of law, trade custom, or contract, or that the loss may be collectible out of other insurance, he should recommend to the insurer that, if it wishes to pay the insured without waiting for a determination of the liability of the third party or of the other insurance, it do so by advancing the amount under the protection of a trust, or loan receipt.¹

Use of Attorneys. It is present practice to refer investigations and efforts to collect tort claims to attorneys who specialize in such work and are organized to handle it. After the insurer has selected the attorney and authorized the adjuster to consult him, the adjuster should inform him of the situation as soon as possible and afterward cooperate with him as the case progresses. Attorney's fees for subrogation work are ordinarily on a contingent basis.

Authority to refer subrogation cases to attorneys rests with the insurers, who generally maintain a selected list of the attorneys they wish to use. Sometimes they will give an adjuster general instructions as to using an attorney; at other times, they will give specific instructions in each case.

Ordinarily, insurers wish a preliminary report on losses in which a right of recovery exists so that they may judge the possibilities of the situation and decide what they should do.

Plan of Operations. An established adjuster will generally handle several hundred losses every year. Ordinarily, he is notified of losses in the order of their occurrence and generally takes up their adjustment in the same order. There are, however, frequent occasions when several losses occur at almost the same time. In periods of abnormally cold winter weather, fire losses are far more numerous than usual. Bright weather on holidays produces heavy automobile traffic which increases collision losses. Windstorms may produce losses by the thousands. Following any sudden increase in the average daily or weekly number of losses, the pressure of work will dislocate orderly attention to it. In almost all adjust-

¹ See Appendix R.

ment offices, periods of relative quiet alternate with others of tension and confusion. Sometimes losses will be far apart geographically, while at other times they will be confined for weeks to a relatively small area. At times, the adjuster will find his duties comparatively easy; at others, he must travel hard and keep late hours. Like any other person whose work is professional in its nature, the adjuster experiences great irregularity in the demands made on his time and physical powers.

The adjuster in a metropolitan area will have days when he will be able to keep his engagements and clear his papers according to schedule, but he will have others when conflicting demands for his presence at widely separated points will require him to put in much overtime, if his output of completed papers is not to fall far behind.

The adjuster must follow some consistent general plan in selecting work to be given priority. Any plan should provide that, as far as possible, losses be taken up in the order of their occurrence. This order, however, must necessarily be subordinated to traveling conditions and also to the need of giving prompt attention to losses involving property that may be saved from further damage or restored by appropriate action, postponing losses in which the property or the claimant will not suffer by delayed adjustment. Conservation of time, energy, and expense must also be considered.

The adjuster, except when working under catastrophe conditions, is ordinarily expected to reach the scene of any loss within 24 hours after it is assigned to him. In areas of sparse population and at long distances, however, the adjuster leaves his office with enough assignments to keep him busy on the road for several days. He should route himself so that neither time nor mileage will be wasted. When several losses are to be adjusted in the same community, they should be taken up, as far as possible, in the order that will do most to prevent further damage, but the adjuster must adapt that order to the exigencies of claimants and local agents in order to avoid the ill feelings that arise from delay.

Occasionally, particularly in the smaller communities where the people tend to counsel one another, the adjuster will encounter several claimants who have suffered similar losses in the same disaster. One of the claimants may, because of standing or personality, dominate the others, and they will look to him to fix a price basis or a method of adjustment that they will accept in making their own adjustments. In such a situation the ad-

juster should identify the dominant claimant and take up and adjust his loss first.

When a number of claimants have sustained losses in the same fire, windstorm, or other occurrence, there will be some who have suffered much more from the shock of the experience than others. As a general rule, such claimants should be avoided until they have a chance to recover their equilibrium. From time to time they will hear from friends and neighbors that other losses are being settled, and as each day passes they will suffer less.

In all situations, the adjuster should try to escape pressure that will force him to work at excessive speed or work too long without rest and relaxation. Haste endangers accuracy, and weariness reduces mental and physical efficiency.

Catastrophes. The conflagration that followed the San Francisco earthquake of 1906 produced the greatest monetary loss in the history of insurance. It surpassed in destructiveness the Chicago fire of 1871 and the Baltimore fire of 1904. Since 1906, Chelsea, Houston, Augusta, and Atlanta have suffered from fires of conflagration magnitude. With the growth of windstorm insurance have come the catastrophes at Miami in 1926; St. Louis, in 1927; in New England, in 1938; along the North Atlantic Coast, in 1944; and, worst of all, in the Northeast on Nov. 25, 1950. The great windstorm of that date produced a greater number of losses than any other catastrophe, and, for a while following its occurrence, the adjusting forces of the country were overwhelmed. Following a catastrophe, insurance companies make every effort to adjust and pay their claims with equity and dispatch. Any catastrophe creates an immediate demand for an immense amount of loss work to be done in a comparatively short time. To do this work effectively the men placed in charge of it must immediately begin mobilizing personnel and equipment, collecting information, and arranging work. Conflagrations generally produce fewer claims but larger average amounts of loss than either tornadoes or hurricanes. The hurricane, however, because of the great area over which its winds blow with destructive violence, produces the largest number of claims. Since the coming of the Extended Coverage Endorsement the number of losses per square mile of area ravaged by windstorm has greatly increased.

Confusion. Following a major disaster a community will be disorganized

by the property destruction and loss of life. Because of the disorganization, it is impossible for adjusters or companies to get reliable information promptly. Transportation will generally be suspended until streets can be cleared of debris. Telephone service will be impaired, and the lines still in operation will be overloaded with emergency calls. Gas and electric plants may have been destroyed or may be forced to shut down until gas connections to destroyed property can be plugged, or electric wires disentangled or replaced where they have been carried down by broken or burned poles or falling walls. The water supply may be cut off, reduced in quantity, or contaminated. The demand for police and relief work will press into service a large number of citizens whose normal duties must remain unperformed for the time.

The people as a whole will suffer from the effects of shock. As soon as telephone service permits, policyholders will try to get calls through to the agents and will often become exasperated by repeatedly getting busy signals. Some will make impossible demands for immediate inspections, or authority to make repairs before adjustment. Others will want additional insurance. There will be many demands for new policies. As a result of the pressure on the offices of insurers and agents, the offices will be so overburdened that they will be unable to give the adjusters the help they should have in getting the work under way.

Following the November, 1950, windstorm, producers and companies received so many notices of loss that it was impossible to record and arrange them as they arrived or refer the adjustments promptly to the adjusters.

Increased Costs. The necessities of rebuilding, repairing, refurnishing, and restocking a burned-out or wind-ravaged community create an unusual demand for materials, labor, and transportation. The demand will quickly exhaust local stocks and give all local labor full and, for a while, overtime employment. As a result, there will be an increase in labor and material costs which will persist until outside sources have been drawn upon and an equilibrium between demand and supply is established. Until conditions stabilize, there will be much gouging by irresponsible suppliers and repairmen.

Acute Problems. The acute problems of adjustment work after catastrophes include bringing in adjusters from other areas, employing temporary office personnel, finding space and equipment for temporary

offices, stocking necessary supplies, making working arrangements with competent local builders or other advisers, and dealing with the great number of emotionally upset claimants.

Adjusters brought in from other territory may have to put up with poor hotel accommodations, bad food, irregular hours, and makeshift office arrangements.

To meet the convenience of distressed claimants, it will often be necessary to work early and late and under conditions of pressure and haste which are productive of upsets and mistakes.

The resident adjusters must not only work on catastrophe losses but must also handle the day-to-day losses that occur in the area.

The adjustment of many claims must be made while prices are rising or high. The best that can be accomplished under such conditions is to keep the labor and material prices allowed in the adjustments from exceeding the average price advance justified by the temporary relation of supply and demand. Many claimants will present estimates made by profiteers who are not satisfied with justifiable prices but who are speculating on the necessities of the occasion. In addition, the adjuster will have the trouble of dealing with some claimants whose conduct may border on the hysterical or who may contend for excessive claims with unusual stubbornness. Mob psychology will evidence itself when groups of claimants congregate in the adjuster's office and compare notes with one another. Great pressure will also be brought to bear on the adjusters to force them to consent to the making of extensive repairs before inspection and adjustment. Particular claimants or agencies will often demand undue attention. While the adjusters should do all in their power to encourage and expedite the rehabilitation of the community, they should refuse to permit acts or neglect that will destroy opportunities for intelligent adjustments. It is of vital importance that they resist the efforts of claimants and their representatives to force through adjustments before proper information is in hand.

Organization. Catastrophe work is now handled by the local adjusting offices, following minor catastrophes, but following major catastrophes, local offices are inadequate and their facilities must be supplemented by temporary offices set up in the affected area. These temporary offices may be manned by salaried company men, bureau employees, or independents.

The results of the November, 1950, storm have lead many adjusters

to believe that it is unwise to expand the adjusting staff of a local office in order to handle catastrophe work, and that all organizational effort must be directed toward adding to the office personnel. Only so much catastrophe work should be accepted as can be handled along with the regular work that the office will continue to receive.

The organization of a temporary catastrophe office calls for the renting of temporary space, installation of telephones, assembly of furniture, typewriters, adding machines, and calculators, purchasing or shipping in of stationery and supplies, and the employment or transfer to the office of the adjusters and office personnel that are to operate it. Adequate advertisement must be made of the office. Claimants and producers must know about it. A routine of recording, indexing, and filing reports of losses must be set up, and the personnel of the office familiarized with it.

As soon as possible, arrangements should be made for a proper distribution of assignments to the men who are to do the adjusting. If the property involved is of the same general class, the work may be allotted territorially, a properly blocked-off map being of great assistance in such cases. If, however, the catastrophe has ravaged a section containing a varied character of risks, the adjustments should be allocated according to the talents of the adjusters.

If the office is manned by company employees, it will probably be instructed to pay adjusted losses and retain all loss papers until they can be sent to the company in a batch, or to forward the papers pertinent to each loss as soon as it has been paid.

A bureau or independent office should promptly forward all papers, so that payments can be made without delay.

Papers covering catastrophe losses should be marked with the catastrophe number so that when they reach the insurer the loss will be promptly identified as one originating out of the catastrophe, as practically all insurers now carry excess-cover catastrophe reinsurance. Insurers will inform adjusters of the number assigned to any catastrophe.

National Board Plan. Prior to the Augusta, Ga., conflagration of 1916, the National Board of Fire Underwriters inaugurated a plan for handling conflagration losses which has since been followed with excellent results by insurers and adjusters. While devised for handling conflagrations, it has also been successfully used for handling windstorm losses, whenever the devastated area has been limited to a single city. In May, 1952, the

National Board published a pamphlet of 125 pages, which includes the latest development of catastrophe loss adjustment procedure. The Board will furnish copies to reputable adjusters who request them.

Controversies between Insurers. In the adjustment of losses in which two or more insurers are interested, controversies at times arise because opinions differ as to how much each insurer should pay. Situations generally responsible for such controversies are those in which the policies are nonconcurrent and those in which efforts had been made to cancel or substitute policies.

Nonconcurrent policies present questions of contribution and apportionment, primary and excess insurance, exclusions, and limitations.

With the broadening of the fields of fire, inland marine, and casualty insurance and the great extensions of coverage that have come in recent years, there have developed situations in which the coverage of the different kinds of insurance overlap.

Formerly, different methods of apportioning losses under nonconcurrent fire policies were followed in different sections of the country, but methods have now been standardized by the general acceptance of the Rules of Apportionment promulgated by the National Board of Fire Underwriters.¹

Agreements of Guiding Principles have been worked out by the National Board of Fire Underwriters, the Inland Marine Underwriters Association, and the National Bureau of Casualty Underwriters, standardizing procedure when coverage overlaps.²

Controversies over efforts to cancel and substitute policies often follow the act of an insurer that orders its agent to cancel a policy. As the agent generally wishes to keep the insured covered, he writes a policy of another insurer as soon as he receives the order to cancel and mails the new policy to the insured, asking that he return the first policy as cancelled. If a loss occurs before the first policy has been surrendered, a controversy over which insurer shall pay the loss almost always follows.

Arbitration between Insurers. As in most of the controversies between or among insurers over questions of contribution and apportionment, or cancellation and substitution, the insured is annoyed and the payment he needs is withheld because of circumstances which do not affect his interest, there is a strong feeling on the part of underwriters that such

¹ See Chap. 6.

² See Chap. 6.

controversies should not be allowed to involve the insured in litigation. There is also a feeling that insurers can do much better by settling their disputes with one another than by taking them to the courts.

These feelings are responsible for the present well-established practice of submitting to arbitration controversies between or among insurers when the insured has sufficient insurance to cover the loss and is innocent of any wrongdoing.

While in some instances arbitrators are selected by the insurers, the prevailing practice among stock insurers is to place the controversy before the Committee on Losses and Adjustments of the National Board of Fire Underwriters. The chairman designates a subcommittee to consider the controversy, and the report or reports from the subcommittee are reviewed by the whole Committee.

A controversy may be brought before the Committee only by unanimous agreement of all insurers involved. The Committee will not act until the insurers present an agreed statement of facts.

Arguments addressed to the arbitrators are made by brief or, at times, by letter. The identity of the persons designated to act as the subcommittee is not revealed to the interested insurers.

In some instances, the insurers in controversy pay the insured according to an agreed apportionment and make an adjustment among themselves when the arbitrators render their award.

The author was a member of the Committee when the practice was being established. He takes great pride in the results accomplished.

Investigating and Reporting

This chapter will deal with the methods generally employed by the adjuster in making investigations: how he gathers information and develops evidence; what he should report; and how, in making his reports, he should avoid using language that is not easily understood, or making statements which might later be quoted to his embarrassment.

Investigation has for its purpose the finding of facts relating to the insured, the property, the interest, the loss, the claim, and, at times, other subjects.

A report should inform the insurer of what the adjuster has found and what he has done. It should include pertinent comments and any recommendations warranted by what has been found.

The Insured. Investigation is made of the insured in order to learn what he has done in the past and, therefore, how he may be expected to act as a claimant.

In the great majority of losses, there will be nothing connected with the origin of the loss or the claim suggesting improper conduct on the part of the insured. Checking the spelling of his name and making a more or less casual inquiry into his history, occupation, and any previous losses he may have suffered will be all the investigation required. On serious bona-fide losses it may be necessary to go into the insured's business history and trading or operating methods in order to adjust the loss properly and report it clearly and comprehensively.

It is only when apparent or suspected fraud is encountered that intensive investigation is called for. Intensive investigation begins with identifying the insured and covers his history, status, condition, and prospects.

When partnerships, associations, groups, or corporations are insured,

investigation of controlling personalities such as partners, members, officers, officials, and sometimes active employees may be in order.

Identification. Generally the agent, broker, or company representative through whom the insurance was placed introduces the adjuster to the insured and by doing so identifies him as the person named in the policy. Identification of a person may require a check of his name as given to the adjuster against any other names the person uses or is known by, and against his former name or names if there has been a change of name. Names of parents, or the name of husband or wife, may sometimes be necessary to differentiate one person from another of the same name. Checking names is usually done by interviewing persons and getting their statements and by reading commercial and credit reports. Sometimes the personal factors of sex and age must be considered along with such characteristics as racial origin, color, height, weight, eyes, hair, distinguishing features, scars, deformities, evidences of injuries or impairments, speech, habits, and behavior. Personal factors and physical characteristics are developed through observation, from descriptions given by other persons, from school, hospital, and police records, and from photographs. Fingerprints are accepted as absolute identification.

The adjuster seldom encounters a situation where the identity of the insured is in doubt. When it is, investigation requires diplomatic handling.

History. The history of a person begins with the date and place of his birth, the occupation and status of his parents, his education, religious training, and early employment or occupation. Later places of residence and dates of changes of residence will, if established, connect him with various events. Records of businesses engaged in or occupations followed, with locations or addresses, trade or other names used, associates or employers, may be important. His record or reputation for meeting financial or other obligations, together with his record for thrift or extravagance, will be indexes of his character. If he has been involved in previous fires, their dates, the property involved, the amount of loss sustained, and the insurance collected in each case should be subjects of inquiry. Burglaries or other losses by theft should be inquired into in like fashion, also whether any thief was apprehended or any person suspected. The names of any adjusters who may have settled previous losses with him should be ascertained. Business troubles should be traced; bankruptcy, compromises with creditors, or loss of property due to foreclosure or sale of collateral by a

creditor. If the insured has a criminal record, it is advisable to find out for what crimes he was convicted, in what courts he was tried, what attorneys defended him, and what sentences he received. If he has a police or traffic-court record, it should be similarly investigated. The history of the insured is generally developed by questioning him and by checking his answers against the statements of persons who know him.

Status. The nationality of a person, his occupation and standing in the community or the group of which he is a member, and his associations may influence his behavior. His place of residence and his place of business or employment will determine his movements and, in many cases, his habits. Whether he is single, married, widowed, divorced, whether he has a family or a group of kinsmen or relatives may affect his conduct. Information as to the status of a person comes from observation of him and discussion with him, from the statements of others who know him, and from records, such as payrolls, registrations, enrollments, or leases.

Condition. The physical condition of a person, whether he is well or sick, sound or injured, often accounts for his actions. His mental condition, whether he is sane or insane, alert or dull, happy or unhappy, also affects his ability and behavior. So do family life and social contacts. The physical or mental condition of a person is generally noted by others who come in contact with him. Morally, a person's condition is evidenced by his attitudes toward alcohol, sex, gambling, the money or property of others, and his disposition to live and let live, or to be offensive, oppressive, or extortionate. Financially, the insured's condition will be good if he is solvent, enjoys a comfortable income, keeps expense within bounds, has adequate resources and good credit, and suffers no unusual burdens. It will be bad if the contrary is the case. Financial condition is determined by questioning the insured, by examining his records, by questioning informed persons, and by reading trade reports.

Prospects. The prospect that the future may improve or deteriorate the insured's condition may affect his actions; therefore, his prospects at, or immediately before, the time of loss may be worth considering. If threatened with loss of health, income, or property, with family misfortune or other troubles, he may be driven to acts of desperation. Information about the prospects of a person is usually gathered from discussion with him checked against what others say about him.

Relation to Producer. It is advisable in any investigation of the insured to

find out whether he is a new or an old customer of the producer, how he came to be a customer, and his real value to the producer.

Reporting on the Insured. In reporting on the insured the adjuster should put before the insurer the facts he has developed or the comments he has heard so that the insurer will have information on which it can act intelligently in dealing with the loss or with any future business that the insured may offer. When the insured is a reputable member of the community, and the loss or claim has developed nothing unusual, no comment on the insured is necessary. On the Adjuster's Confidential Loss Report, both stock-company and mutual forms, a space is provided for the adjuster to state whether he recommends continuation of the insurance.

If the insured has been found to be fair-minded, cooperative, or possessed of marked ability, the insurer should be so advised. If, on the other hand, he is venal, mercenary, or difficult to deal with, it is incumbent on the adjuster to report clearly, but with great discretion, on his characteristics, setting forth the acts or omissions observed by, or known to, the adjuster that indicate the characteristics. But in reporting on the insured, the adjuster must avoid making statements that, if communicated to the insured, might be used as the basis of a suit against the adjuster, and perhaps the insurer, alleging libel or slander. Offensive or derisive comments should never appear in a report.

The Property. The adjuster should examine the property, or if it has been lost or destroyed, the evidence that bears upon it, in order to determine whether it is the property described in the policy, its character and condition, the kind of risk it was, its history, its value to the insured, its prospects, who held title to it, what encumbrances rested on it, and who had possession of it.

The sections of this chapter dealing with the property have to do with circumstances existing prior to the time of loss. What may have happened to it as a result of the loss is outlined in subsequent sections dealing with the claim¹ and also in the chapters dealing with buildings and personal property.²

Identification. Investigation of the property begins with efforts to find out whether it is the property described in the contract of insurance and, if so,

¹ See pp. 154-162.

² See Chaps. 9, 11, and 12.

whether it was at the location covered or a covered location within the boundaries stated in the contract.

The first step is a check of the property against the policy. Ordinarily, this step identifies the property as that described.

Buildings in cities generally check to street numbers and rarely present any real problem of identification. In outlying and remote areas, ownership and occupancy generally identify them. Occasionally a problem arises because of the proximity of two buildings of the same ownership, either of which fits the description stated in a policy or group of policies covering at the location.

Contents items, such as household furniture, personal effects, fixtures, or machinery and equipment, check to descriptions of the items and generally to the descriptions of identifiable buildings.

Property in the open, in yards, fields, or forests, may be within or without the boundaries stated in the insurance contract. These boundaries must, therefore, be traced and the relation of the property to them determined.

The same work must be done when the property is covered by floating insurance. It must be determined whether the property is within the limits of the floater and whether coverage at the location is excluded.

Rail and truck cargoes check to bills of lading, loading tickets, manifests, invoices, and similar documents, and these, in turn, check to the policy.

Automobiles are identified by checking the make, model, year, body type, and serial numbers against those shown in the policy.

If the insurance is subject to conditions of average, coinsurance, or distribution, identification and listing of all property covered are essential in order to determine whether sufficient insurance is carried.

If a check of the description and location as stated in any letter, binder, or policy form cannot be made against the property itself, or against remains of it, records such as inventories, contracts, or bills of sale covering the property may have to be scrutinized. If none of these is to be had, the statements of persons familiar with the property may be required to support or disprove the statements of the insured.

Sometimes property is described as being shown on a map or diagram on file in a stated office. If so, a study of the map or diagram may be necessary.

Occasionally, the rate of premium indicates the property intended to be covered. Thus, if two risks are so owned, located, and described as to make

it difficult to say which one is covered, the rate may be indicative. If the rate on one differs from that on the other, the higher or lower rate shown in the policy will indicate which is covered.

Ordinarily, it is not difficult to identify the property, but occasionally it is, because of ambiguous language in the policy form. In that case the intent of the insured and the insurer must be tested by statements of the insured and the broker on the one hand, and the officer, employee, or agent of the insurer on the other. In some cases it will be advisable to have the statements reduced to writing and signed. They can then be filed with the insurer with the adjuster's report.

Information acquired from an examination of the property can be preserved in descriptive memoranda or detailed reports, supplemented by photographs, pieces of materials, tags, labels, or other articles carrying identifying names, or impressions or rubbings showing raised or indented letters, numbers, or other characters.

Character and Condition. The character and condition of property largely determine its value, how it will be affected when exposed to the action of one or more of the perils insured against, and how it must be treated if damaged. A brick building is more valuable than a frame building of the same design, a pound of silk than a pound of cotton, a five-carat diamond than a rhinestone of the same size. Frame buildings suffer more from fire than do brick, while cotton fabrics are damaged more by water than are woolens. Truckloads of silk stockings or furs are more often hijacked than truckloads of groceries. Damaged buildings are repaired, damaged baled cotton is dried, picked, and rebaled, while damaged sugar is sent through a refining process.

New property that is sound is more valuable than old property that has suffered from decay, corrosion, or other kinds of wear and tear, or that is damaged. A few kinds of property grow more valuable with age, rare antiques and genuine works of art being examples. Wines and liquors, and some other kinds of personal property that must be aged or seasoned to be at their best, will increase in value for a while. But ordinarily the value of property decreases as it grows older and deterioration and obsolescence overtake it.

Some kinds of property will, in one condition, be in greater danger from the same peril than in another. Green hay, for example, if stored in quantity in a barn, at times ignites spontaneously, whereas cured hay does not.

Bituminous coal tends to heat and ignite spontaneously if a large quantity of it is piled improperly, but does not do so if properly piled. Newly assembled machinery often develops hot bearings. New buildings tend to settle and in doing so sometimes crack plate-glass windows. Newly installed sprinkler systems tend to develop leaks.

Investigation of the character and condition of any piece, article, or group of property is ordinarily made by an examination of the property itself. Results are recorded as described in the preceding section on identification.¹ Records must be consulted, or the statements of persons taken, if the property has been lost or destroyed.

The Property as a Risk. The features of the property that contributed to the occurrence of the loss, or to the size of the loss, should be noted by the adjuster, also any existing defect or other circumstance that increases the chance of a future loss. They should be presented with appropriate comment by the adjuster in his report. Except in the case of large fire losses that are investigated by inspection bureaus or special-risk experts, the adjuster is ordinarily the only qualified person who examines the property and possesses himself of the information that the underwriter should have for consideration in his future treatment of similar property, or of the same property if it is again offered as a subject of insurance.

In fire losses, construction, occupancy, exposure, and protection are to be noted. When possible to do so, the cause of the fire should be determined, the place of its origin located, and its spread traced. Appropriate comment should be made on any detail of construction, occupancy, or protection that tended to limit or extend the spread of the fire, or lessen or increase the loss.²

The minimum required of the adjuster when reporting on a fire loss is that he complete the Adjuster's Loss Report, either the stock-company or the mutual form. In the former, he must state whether the risk is of brick, frame, or fireproof construction and whether it is protected or unprotected. He must specifically state whether it is within the protection of a public fire station and within 500 feet of a public hydrant. In the latter, he must state occupancy and construction, whether occupancy contributed to the fire, whether construction contributed to the size of loss, and whether there are any physical defects needing correction.

¹ See p. 103.

² See Prentiss B. Reed, "Fire Insurance Underwriting," Chap. XI.

History. The history of property begins with its erection, if it is a building or structure; its manufacture, if it is a fabricated article; its production, if a commodity; and its assembly, if it is a group of articles such as the furniture and personal effects in a home, the fixtures in a mercantile establishment or an office, the equipment in a manufacturing plant, or the stock in a store. Investigation into the history of property will, therefore, commence with finding out when and how it was brought into existence, who was responsible for its origin, and what he planned to do with it. From then on, the character of the property, the use to which it has been put, the effect of its environment, and the degree of care and attention it has received will determine the depreciation it will suffer due to deterioration. The mere passage of time will often determine the depreciation due to obsolescence.

The history of property may show that it has been used properly or abused, that owners, occupants, or users have found it desirable or undesirable and, accordingly, given it care and attention that have tended to preserve it or have done nothing to keep it from deteriorating. Furthermore, it may show a record of losses indicating dangerous characteristics, poor design, improper operation or handling, inadequate protection, or constant exposure to some besetting hazard or nearby source of danger. A compilation of the history of the property involved in an unusual loss may produce information that will greatly help the adjuster in weighing its real value and, possibly, the cause of the fire, explosion, or other casualty that occasioned the loss. In some cases, the history of the property when checked against the provisions of the insurance contract will show that the property was not covered when the contract became effective; in others, that it was not covered when the loss occurred.

Ownerships or uses prior to the time the property came into possession of the insured, and any circumstances indicating past value or lack of it, may, in some cases, be worth studying. If the property has been damaged by previous fires, windstorms, explosions, sprinkler or water leakages, or plagued by thefts or other casualties, their dates and the amounts of loss and insurance collected in each case may be worth finding out and recording. It is always important to know whether the property was rehabilitated after a previous loss, and at times it is worth while finding out the cost of doing so.

The date the property was acquired by the insured may be important,

as may also be the price he paid or the consideration he gave for it. Terms of payment sometimes indicate the existence of several insurable interests in the same property. The reason for acquiring the property is in some instances worth knowing. Its use since acquisition, its improvement or deterioration, the cost of owning, operating, or selling it, the income derived from it or the loss incurred because of the expense of it may help the adjuster to form an opinion of its real value, and whether the insured had an incentive to preserve it or had found it a burden and wished to be rid of it.

Changes in the property and its surroundings may enhance or lower its value and may increase or decrease the probability that it will be involved in loss.

In ordinary losses nothing is to be gained by any extensive inquiry into the history of the property, but in the occasional loss, history will be all-important. Much of the history of any piece of property can be developed by questioning the owner. Intensive inquiry leads to the questioning of others and the examination of records.

Subsequently Erected Structures. If a policy covers a group of buildings or their contents, the adjuster should find out whether any building in the group has been erected since the policy became effective, because in the absence of a provision to the contrary the policy will not cover a structure erected after the policy was issued.

Increase in Hazard. If in his investigation following a fire loss the adjuster finds that, after the policy was issued, there was an increase of hazard that still existed at the time the loss occurred, but was not permitted by the insurance, he must find out whether the increase was due to any means within the control or knowledge of the insured. Any change, except temporary changes in construction, occupancy, or exposure, that would entitle the insurer to a higher rate of premium or would cause it to cancel, reduce, or restrict the coverage of the insurance, is an increase of hazard.

Unpermitted bringing into the property of substantial quantities of inflammables or explosives, such as hay, celluloid, gasoline, or blasting powder, will cause an increase of hazard. Change of occupancy and occupants when a structure ceases to be used as a private dwelling and is converted to a restaurant and bar is an increase of hazard. The erection of an exposing structure within the distance for which an exposure charge is made in the rate is an increase of hazard.

Ordinarily, the insured is charged with knowledge of conditions existing in and adjacent to his property. Investigation, however, should develop whether, in any given case, the insured had actual knowledge. The question of control is determined by the facts—Could the insured have prevented the increase had he tried to do so?

By checking the property against the description and occupancy stated in the insurance, by inquiring of the firemen what they noted during the progress of the fire, by questioning the insured or other occupants, or by examining buildings-department records, any increase of hazard can generally be brought to light.

Vacancy or Unoccupancy. If a vacant building has been damaged but not destroyed, the adjuster on entering it will immediately note the absence of contents. But if a building has been totally destroyed, it may not be possible to prove a state of vacancy from the appearance of the ruins. If vacancy or unoccupancy for a longer period than that permitted by the insurance is suspected, the statements of the insured relative to the period should be checked against those of neighbors, police, or other persons who knew the condition of the property. The time period of vacancy or unoccupancy is important and can be proved only by statements or the examination of records covering the moving out of tenants or the removal of articles of contents. Vacancy is defined as meaning without contents; unoccupancy, without human occupants.

Value. In doubtful or suspicious losses, investigation should be made of the income produced by the property or the benefits the insured derived from its use, and these should be contrasted with the cost of owning and using it. The result of such an investigation will aid the adjuster, or the loss man to whom the result is reported, in judging what was the real value of the property and whether the insured was interested in preserving it or had decided to realize on his insurance.¹

Prospects. In doubtful or suspicious losses, the prospects of the property prior to loss should be considered, and in some cases investigated. Any circumstance that threatened the existence, use, or value of the property, whether physical, economic, social, or political, should be brought to light. A building, for example, may be threatened by the caving in of mined areas, or the encroachment of an uncontrolled river; or its usefulness may be ended or greatly reduced by a change of street or highway

¹ Investigation to determine insurable value is discussed in Chaps. 9, 11, and 12.

level. The value of coal-burning installations may be affected by the competition of more economical oil-burning equipment. A once-prosperous business may drift into bankruptcy owing to the dying off or moving away of the class of customers who patronized it, and a factory may find its product unsalable if a change in import duties allows foreign competitors to flood its market with cheaper articles. Property, once desirable, may tend to become a nuisance owing to neighborhood changes, and property that has been valuable in the past may occupy a site that will be condemned for water supply, power, or flood control. Information as to the probable future of any property is generally developed by discussion with persons who are acquainted with it. Records of condemnation proceedings should be examined.

It is seldom, however, that the adjuster will encounter a loss requiring any extended investigation of the prospects of the property.

Title. Investigation of title is ordinarily no more searching than asking the insured whether he owns the property. The question of title becomes important, however, in doubtful or suspicious claims, and sometimes in bona-fide claims when the property was under contract of sale, a change of ownership was to take place at or about the time of loss, and buyer and seller held separate policies or sets of insurance.

In the case of a building, the title can generally be determined by an examination of real-estate records. The title to real estate passes only by written instrument, unless the owner dies intestate, when title to his real property descends by operation of law to his heirs. The title of an insured who makes claim for the loss of a building can, therefore, be verified by a check of real-estate records against any documentary evidence he holds, unless he asserts title by inheritance from an intestate ancestor. In such a case his proof of title will be official records or the testimony of witnesses who can swear to his relationship to the deceased ancestor. In rare situations an owner will hold title by reason of an unrecorded deed. Any such deed should be carefully examined, and the circumstances of its preparation, execution, and delivery investigated. The sale of real property is evidenced not only by deeds but also by such instruments as contracts for title, bonds for title, lease-sale contracts, and contracts of similar purport which may bear other names.

Mere possession of personal property justifies presumption of ownership, as title often passes without the formality of executing a written instru-

ment. Important transfers, however, are generally evidenced by bills or contracts of sale, which are sometimes recorded.

The purchase and sale of merchandise in the regular channels of trade are ordinarily recorded by entries on the books of both purchaser and seller and are evidenced by invoices, except in the case of retail sales to customers, many of which are made without even writing up a sales slip.

Commodities in warehouses are often covered by negotiable warehouse receipts, the possession of the receipt evidencing title.¹

Only a small percentage of personal property is held under documentary evidence of title recorded on public records. The common documentary evidences of purchase have already been discussed. Actual possession and oral statements must, in many cases, be accepted as evidence of ownership where nothing in writing can be found to throw light on the title.

Clear title to property is the desirable condition. Clouded title may threaten the possessor with loss and make the proceeds of an insurance policy seem more valuable than the property itself. A clouded title also makes for uncertain adjustment and payment at the peril of having another claimant appear.

Possession. Possession of real property is evidenced by the presence of the person or persons occupying it, by the testimony of the owner or others who are informed on the subject, and by leases, contracts, wills, trust agreements, or other written instruments. Because possession by another than the owner under some circumstances imposes a liability on the possessor for certain kinds of loss or damage, and under others gives him rights that affect the owner's interest, investigation of possession is at times important. A lessee, for example, may be under obligation to restore fire damage or may be in possession under a lease giving him an option to purchase the property at a stipulated price. In the first case, investigation will establish the lessee's liability and lead to an examination of all insurance to see whether the lessee is insured; in the second case, investigation may reveal that the owner had agreed to sell his property for much less than the amount of his insurance.

Possession of personal property is evidenced by the location of the article or articles, by testimony of persons who have knowledge of it, and by documentary evidence such as contracts of sale, leases, bills of lading,

¹ See Bailor and Bailee, p. 470.

manifests, processing contracts, warehouse receipts, and a variety of tickets and checks. Book entries, in some cases, evidence possession.

When personal property is in possession of the purchaser under a contract of sale, or a lessee, the purchaser or lessee is ordinarily free to use it as he sees fit. In some cases, however, he must keep it at a specified location or use it in a specified way. Contracts of sale and leases covering personal property generally stipulate the liability of the person in possession in case the property is lost or damaged.

When personal property is in the possession of a carrier or other bailee, the bailee must handle it in accordance with the terms of the contract set forth in the bill of lading, contract, warehouse receipt, ticket, or other document evidencing his possession. In many such documents there is stipulated what charge the bailee shall make for his services and also the extent of his liability in case of loss. In some cases the bailee holds the property under an oral contract. In such cases the adjuster must establish the terms of the contract by having the parties state their understanding or by questioning them in detail. Often the contract is nothing more than a recognition of the custom prevailing in the trade.

Encumbrances. Mortgages and liens on real property are ordinarily recorded, but those on personal property ordinarily are not. Investigation of encumbrances follows the same general plan as the investigation of title set forth in the preceding section. Excessive encumbrance makes property a burden to the owner. A multiplicity of encumbrances sometimes makes it necessary to take legal advice on how to pay an adjusted loss. In many mortgage agreements it is stipulated that the mortgagor must carry insurance on the property for the benefit of the mortgagee. Such a stipulation may give the mortgagee a right to participation in any payment made by the insurer.

The Interest of the Insured. The interest of the insured in the property is determined according to the way in which the loss to the property will cause him a present or future loss, and the amount of that loss. Investigation of interest requires that its nature and extent be determined. In some tangled cases a consideration of the history, condition, and prospects of the interest will be in order.¹

Nature and Extent. The nature and extent of the insured's interest is

¹ Specific discussion of the commonly encountered insurable interests will be found in Chap. 5.

determined in the same way that title to property is determined. The interests commonly encountered in adjusting losses are those of owners, part owners, mortgagees, bailees, and lessees.

History. In doubtful or suspicious losses it may be worth while to find out when the insured's interest in the property began, how and why he acquired it, and what circumstances have made it valuable to him or made it a liability. The history of an interest is often so closely interwoven with the history of the property that no separate investigation has to be made.

Condition. At the time of the loss the insured's interest may be undisputed or disputed. Occasionally two persons claim ownership of the same property. The interest may also be valuable or worthless, productive or non-productive, available for collateral or not available. The value of the interest should be compared with the amount of insurance. The condition of the interest often checks to the condition of the property and does not require separate investigation.

Prospects. Occasionally the prospects of one interest are radically different from those of other interests in the same property.

Consider the case of a house occupied by an old person who has a life estate in property that is destined to pass at his death to a remainderman. As time passes, the value of the life estate decreases, and the insurable interest of the life tenant grows less. Concurrently, the value of the estate in remainder increases, and the interest of the remainderman grows greater. Or consider the case of owner and mortgagee in connection with property that burdens the owner with heavier costs than he can pay. As he defaults in his interest payments, the interest of the mortgagee increases in extent, because the unpaid amounts are added to the mortgage debt.

It is thus possible for one interest in property to threaten the existence of another. Investigation of the prospects of an interest begin with questioning the insured and may lead to an examination of property records.

Other Interests. The New York Standard Fire Policy requires the insured to state in his proof of loss "the interest of the insured and of all others in the property." This requirement imposes on the adjuster the necessity, in uncertain situations, of investigating for other interests so that he may accept or reject the insured's statement. Investigation as to other interests begins with questioning the insured and may require a search of property records.

The Insurance. The insurance under which a loss has been reported is examined, and investigation is made in order to determine its validity, what and how it covers, its limitations, to whom it is payable, and how it compares with the property and its value. When there are two or more policies describing the same property but insuring different interests, it may be necessary to determine whether one should bear the entire loss or all should participate in it. Insurance is checked against the insured, the property, the loss, and the claim.

Policies, Binders, and Oral Contracts. Investigation of the insurance begins with requesting the insured to present his policy or policies for examination. If loss has occurred before any policy has been issued, the insured or his representative will generally hold a binder. Binders are usually prepared on receipt of the order to insure, and the insurance begins at the moment the binder is signed or initialed by an authorized representative of the insurer. Presentation of the binder should be requested if there is no policy. In rare cases, claim will be made under an oral contract to insure. In such cases, the adjuster should question both the insured and the agent, or other representatives of the insurer, and afterward ask for separate letters setting out the agreement as each remembers it, or should reduce to writing the statement of each and have the statements signed.

Lost or Destroyed Policies. Occasionally policies are lost or destroyed, destruction generally resulting from fire. In such cases the information on file in the office of the agent or insurer must be consulted.

Suspected Issuance of Binder or Policy after Loss. Sometimes there is reason to suspect that a binder has been signed or a policy issued after the loss had occurred. As many binders are time-stamped, it is possible to determine within a few minutes the time when they became effective. It is not, however, so easy to be certain just when an unstamped binder was signed or when a policy was written by an agent who is conniving with the insured. It is next to impossible to disprove the time and date of an unstamped binder.

If the facts justify suspicion that a policy was issued after the loss, the adjuster should trace as far as possible the course of the daily report from the agent's office to the office of the insurer. If the envelope in which it was mailed can be obtained, the postmark will indicate the approximate time of mailing. If the agent's office is in territory under jurisdiction of a

stamping office, the record of when the stamping office received the daily report will throw additional light on the matter. The suspected issuance of a new policy should ordinarily be looked upon more seriously than that of a renewal, but in any case the adjuster should diplomatically, yet thoroughly, cover all sources of information to be found.

Suspected Alteration or Endorsement after Loss. At times a situation similar to that described in the preceding section is created by an alteration of the policy, or by the attachment of an endorsement that, if bona-fide, would make the insurer liable for a loss that otherwise would not be covered or only partly covered. Suspected alterations or endorsements changing description or location of property, increasing amounts of insurance, eliminating contribution clauses, or adding perils insured against should be investigated by a comparison of the insurer's records with the policy, and in the same general way as outlined in the preceding section.

Policy Differing from Daily Report. There is also the very rare case in which the policy presented in support of the claim will differ radically in amount or form or both from the amount or form on the daily report sent by the agent to the insurer. The amount and premium will be greater, and sometimes the property described will be far more hazardous and undesirable than that shown on the daily report. Any such case calls for investigation under direction of the insurer.

Checking Policies. Policies are checked for amount, commencement and expiration dates, insurer issuing, property and location covered, perils included, payees, and clauses, warranties, stipulations, and conditions that may affect the adjustment. The adjuster should always find out who placed the insurance and who wrote each policy. In localities where business is done through brokers, the broker places and the company office or agency writes. In localities where all business is transacted through agents, the agent both places and writes.

Policies Incorrectly Written. Some incorrectly written policies will be encountered. One of the most common mistakes is that of writing a policy in the name of one member of the family when the property belongs to another. Whenever an incorrectly written policy is presented to the adjuster, he must find out why it was so written and present the situation to the insurer. The statements of the insured or the broker on the one side, and the agent or company man on the other, should be summarized and reported accurately.

History. In the investigation of a doubtful or suspicious claim, the history of the insurance may indicate preparation for willful destruction or a faked loss of the property. It is, therefore, important, when handling such a claim, to find out when the insurance was applied for or solicited and when it was bound or written. Past increases or decreases in the amount should be noted, also any favorable or unfavorable changes in terms. Changes of broker, agent, or insurers may be significant.

Assignment of Policy before Loss. If an assignment is written upon the policy, it will be discovered by the adjuster when he examines the policy. If an assignment is suspected but does not appear on the policy, the adjuster can do no more than require the insured to make a sworn statement that the policy has not been assigned. Discovery of an assignment executed before the loss is usually made at the beginning of negotiations of adjustment, as the assignee is generally anxious to be assured that his interest will be preserved and consequently presents his assignment or a copy of it to the insurer or the adjuster.

Other Insurance Held by Insured. A listing of the policies presented by the insured for examination ordinarily brings to light all insurance held by the insured. Such an examination, however, is not conclusive as it is possible that the insured may have misplaced a policy or overlooked policies that are still awaiting delivery in the offices of agents who issued them. It is also possible that one or more of the policies presented may have been canceled by notice sent to the insured by an agent or insurer. The insured may also be covered by a binder or binders held in an agent's office. If the insured negotiates for his insurance through a broker, other policies or binders may be in possession of the broker. The adjuster's investigation, in case he suspects other insurance, should include examination of the policies, a check of the insured's insurance record, if he maintains one, interviews with agents who may have issued other policies, and an interview with the broker, if the insured employs a broker. Cases are constantly occurring in which, after the loss has been adjusted, apportioned, and paid, a policy will be found which should have contributed. It is customary in such cases for the adjuster to prepare a reapportionment and also a proof for the omitted policy. The insurer that issued the omitted policy then reimburses the other insurers that have overpaid and makes a payment to the insured, if he has contributed as a coinsurer under the original apportionment. Other cases occur in which insurers make duplicate pay-

ments on the same property. In an effort to reduce the number of such cases, the National Board of Fire Underwriters maintains an extensive organization which receives reports of all losses in excess of \$50 paid by its members and correlates them by names and locations, a method which has led to the discovery of many cases of duplicate payments that otherwise would never have been brought to light.

In bailee losses, where the bailee carries insurance covering the property of bailors, or covering the bailee's liability for loss to such property, it becomes necessary for the adjuster representing the insurer of the bailee to find out whether the bailors are carrying their own insurance. Investigation generally begins by instructing the bailee to write each bailor, notifying him of the loss and asking him to fill out, sign, and return an enclosed questionnaire which asks for the particulars of any insurance he may carry.

Insurance Held by Others. In some instances the adjuster representing the insurer of the owner will find that some other person who has an insurable interest in the property is also insured. In other instances, the adjuster representing the insurer of a person other than the owner finds that the owner is insured. In such a situation the stipulations of the policies and the circumstances attending the loss may indicate that the insurance of the owner should bear the whole loss, or that the insurance of the other person should bear it. Or they may indicate that the loss should be borne partly by the one, partly by the other.

How insurance held by others operates, and what must be covered by the adjuster's investigation when he encounters insurance held by others, may be illustrated by presenting the situation that arises when cloth is sent to a processing plant for dyeing or finishing and, while there, is damaged or destroyed by fire. If the processor holds insurance covering customers' goods and if the owner of the cloth holds his own insurance, which insurance should bear the loss? The question can be answered only after both sets of insurance have been examined, and the terms of the contract between the owner of the goods and the processor have been studied. If it is found that the processor had agreed in his contract with the owner to be responsible for any loss by fire while the goods were in the processor's possession, and if his insurance does not exclude from its protection customers' goods insured by the owners, the processor's insurance should bear the loss.

In such a situation the owner of the goods can, of course, make claim under his own insurance and collect his loss. But if he does, his insurer will require him to assign his right to recover from the processor and will, itself, present the claim to the processor or the processor's insurer. Similar situations arise under inland-marine policies when an owner insures property shipped by a common carrier that also holds insurance covering its liability as a carrier. In such situations the adjuster should develop the facts, which will show whether the processor, carrier, or other bailee is responsible for the loss.

When an insured person who has sustained loss by fire or other peril is entitled to recover his loss, or any part of it, from persons other than his insurers, the primary liability for the loss is said to rest upon such other persons.¹

In any situation involving insurance held by others, the adjuster must find out what and how the insurance covers, what contract existed between the holders of the several policies, or what trade custom, statute, or principle of law controlled their relation.²

Avoidance of Policy or Suspension of Coverage. Concealment or willful misrepresentation of a material fact or circumstance regarding the insurance, the subject thereof, or the interest of the insured, or fraud or false swearing by the insured, whether before or after a loss, will avoid the insurance. Because evidence of any such misconduct on the part of the insured is discovered by the adjuster only after he begins his work on a loss, discussion of how concealment, misrepresentation, or fraud are investigated will be taken up later.³

In some fire-insurance policies there are stipulations that they will be avoided by increase of hazard within the control or knowledge of the insured, or keeping, using, or allowing on the premises explosive or inflammable fluids or articles; in some others, these conditions will work a suspension of coverage as long as they exist.

In some localities policies covering stocks of merchandise contain the *iron safe clause*, which provides that inventories shall be taken at stipulated times, records of purchases and sales kept, and the books preserved and

¹ Remington and Hurren, "Dictionary of Fire Insurance," 2d ed.

² See Guiding Principles, p. 98. See also Chap. 6.

³ See the immediately following section, and later sections of this chapter, The Loss, (p. 126), and The Claim (p. 154).

presented following any loss occurring while the premises are closed for business. Otherwise the policy shall become void.

The adjuster's investigation of a loss should include an inquiry into any possible avoidance of the policy or suspension of its coverage. If he finds a situation in which the facts are such that the insurer is not liable for the loss, he should not commit the insurer to any course of action until specifically directed to do so. In some cases an honest policyholder will frankly admit the facts that have avoided or suspended a policy and will be willing to sign a statement setting them forth. In other cases, the insured will deny them or, if they are obvious, will refuse to commit himself in writing. It then becomes necessary for the adjuster to gather evidence that would help to establish the facts should the claim be litigated. In any event, he should make a prompt and explicit report to the insurer and await instructions, being careful to avoid doing or saying anything that a court might construe as a waiver or an estoppel. In many cases, particularly those in which there is possibility of further damage, it is wise to have a non-waiver agreement or a without-prejudice stipulation executed, after which value and loss may be determined, so that the insured will be free to put his property in order without having to wait until the insurer has decided what action it will take, whether to deny liability, offer a compromise settlement, or waive its defenses and pay in full. While the adjuster should refrain from doing anything that might sustain an allegation of waiver or estoppel, he should be sure to do everything necessary to preserve any defenses the insurer may have by collecting the pertinent evidence and making it available for use in possible future litigation.

Concealment, Misrepresentation, and Fraud. Concealment, misrepresentation, and fraud have always been held to vitiate an insurance contract. The New York Standard Fire Insurance Policy, 1943 edition, stipulates:

This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or in case of any fraud or false swearing by the insured relating thereto.

Under this stipulation, which differs somewhat from the corresponding stipulation in earlier editions of the policy, some old holdings of the courts have been superseded in respect of concealment and misrepresentation. They must, under the new stipulation, be intentional to avoid the contract.

Insurance may be obtained by concealing a material fact or by misrepresenting the hazard, location, desirability, ownership, interest, or value of the property.

In a few instances, owners of outlying property will apply for insurance on it after it has been destroyed by fire, in the hope that the actual date and time of the fire cannot be determined by the adjuster. Likewise, owners of jewelry, who have suffered loss by theft, will afterward insure it and report the theft as having occurred at a date and time that will place the loss within the policy term. Automobiles damaged in collision are sometimes subsequently insured, and the true date of the collision concealed. In all the foregoing instances the insured, when asking for insurance, has concealed the material fact that loss has already occurred. Property insured against theft may be surreptitiously disposed of or hidden and then be reported as stolen.

If insurance has been obtained by concealment of loss, there will generally be a very short space of time between the commencement of the insurance and the reported date and hour of loss. If circumstances arouse the adjuster's suspicion, his investigation should be along lines already discussed.¹

Persons seeking to insure property which, because of indefinite interest, lack of interest, deterioration or other depreciation, excessive hazard, insufficient protection, or dangerous location, would not be accepted for coverage if the insurer learned of the actual conditions, will misrepresent them and thus induce the insurer to cover their property. Sometimes values are misrepresented to avoid payment of adequate premiums. The test of misrepresentation is whether the insurer, if it were truthfully informed by the insured as to all material facts or circumstances, would have refused to write the risk, or would have written it with important restrictions, for a smaller amount, or at a higher rate of premium.

If insurance has been obtained by misrepresentation as to the property or the insured's interest in it, the adjuster should ordinarily find indications of the situation when he inspects the property and makes inquiry into title, interest, and encumbrances.

If a resort hotel has been represented and insured as a dwelling, the appearance of the ruins after a fire will generally give some idea of the true occupancy and lead to inquiries by the adjuster that will develop the mis-

¹ See Suspected Issuance of Binder or Policy after Loss, p. 114.

representation. Likewise, property described as being under fire protection may be found to be outside the protected area, a house insured as occupied may be found to be vacant and abandoned, and a stock of merchandise represented as new and valuable, and covered for a large amount, may be found to be an unsalable collection of odds and ends.

A building, represented as belonging to the insured, may be found in possession of the mortgagee who has taken it over by foreclosure; an automobile, represented as owned by the insured and unencumbered, may be found to be held under a conditional-sale agreement or covered by a chattel mortgage. Any kind of property may be found to be the subject of litigation as to ownership.

Many inland-marine policies are written on representation of the original cost of the property, its appraised value, its protection from loss or damage by the special perils insured against, the interest of the insured, the probability that in case of loss other insurance will be primarily liable, and the loss record of the insured.

A fur coat may be represented as seal, as having cost a certain sum of money, or as having been received as a gift and afterward appraised for the insured at a high value. Investigation may develop that the garment is made of dyed muskrat skins, that its cost was far less than claimed, or that the appraisal was deliberately inflated for insurance purposes.

The applicant may make untruthful answers to the questions in the application. A very able adjuster writes:

There is no coinsurance clause in the jewelers' block policy, but the application is attached to the policy and becomes a warranty and if, for instance, the insured testifies at the inception of the policy that of his entire stock 2 per cent consisted of loose diamonds and it later develops that he had 50 per cent of such diamonds at the time he signed the application, the policy would probably be void because the underwriter rates the risk depending upon the answers to the questions.

If a pawn shop buys this form of policy after stating in the application that 90 per cent of the pledged articles are watches and it turns out that at the time the statement was made it was not true, and that 90 per cent of the value was actually made up of bracelets, diamond rings and similar high value and unmarked articles, and only 10 per cent of the value was made up of watches, there has been a material misrepresentation. Burglars realize the greater danger of detection attending the stealing of watches which can be traced by their numbers, as contrasted with the difficulty of tracing the bracelets, rings, and similar articles, many of which can be cut up and reduced to unmounted stones and precious metals.

If the inventory figure is given as \$10,000 whereas it is later found that all the time it was really \$50,000, the policy is probably void.

There is probably no inland marine situation in which the underwriter is more dependent on the statements of an applicant than in the insurance of jewelers.

Other cases of misrepresentation are found when personal jewelry and fur losses occur. The insured or broker was asked for the loss experience before the policy was written and stated that no previous losses had occurred. The adjuster, in his investigation, turns up a number of prior losses, which, had the underwriter known of them, would have caused him to refuse to issue the policy. The same situation is encountered in transportation losses. The policy will have been issued on the representation that the experience has been good, whereas the opposite is true.¹

In the insurance of automobiles, the misrepresentations ordinarily encountered concern (1) place where the car is principally garaged, (2) occupation of the insured, (3) ownership, (4) description, (5) actual cost or cash selling price, (6) encumbrances, and (7) use.

The place where the car is principally garaged generally determines the area in which it is most frequently driven and, therefore, the rate which should be charged for the policy. Investigation of any suspected misstatement as to garaging may well begin with questioning the insured and may lead to inquiry of dealers, repairmen, garage keepers, or the police.

The occupation of the insured often indicates the ordinary use of the car. Investigation to determine the insured's occupation can well follow the lines previously indicated.²

Misrepresentation as to ownership is generally found in connection with deferred-payment-plan purchases but is occasionally found when dealing with cars fully paid for. The real purchaser under the deferred-payment plan may lack acceptable credit references and may, therefore, use the name of another when buying the car. Cars bought on credit or fully paid for may be insured in the name of someone other than the true owner. A father buying a car for a son or daughter too young to hold an operator's license, or a man presenting a car to a woman friend, may have the insurance issued in his own name. A man who buys a car for illegal use will often cover up the real ownership to prevent detection. A check of registration, operator's license, and bill of sale is the first step in investigating ownership.

¹ Letter from William M. Mortimer to the author.

² See *The Insured*, p. 100.

Probably the most common misrepresentation is incorrect description of the car itself. It may be described as a new model when it is actually an old one. Books published by Branham or by the National Automobile Dealers Association give the motor and serial numbers of automobiles manufactured in different years. With most makes of automobiles, it is possible to determine the year model from the motor or serial number, or the two in combination. The adjuster should, therefore, in every loss make a check of the number or numbers from the car itself. Sometimes the type of car is misrepresented, as, for example, when a coupé is described as a sedan.

The actual cost or cash selling price of a car is sometimes misrepresented in order to increase the possible collection in case of loss. It is well to determine whether the amount stated as actual cost was paid in cash or included a trade-in of an old car that was greatly overvalued.

Encumbrances are required to be declared and, if concealed, the concealment has the same effect as a misrepresentation. When an undeclared encumbrance is suspected, a delay in adjustment proceedings will sometimes bring an inquiry which, if followed up, will lead to the person who holds the encumbrance.

The use of a car may be misrepresented, as when the insured states at the time of applying for the policy that the car is to be used for pleasure and business purposes, but it is actually used as a taxi. Investigation into the use of a car begins with questioning the insured, checking the condition of the car, and questioning repairmen and the police.

When the adjuster encounters actual or suspected concealment or misrepresentation under any kind of insurance, fire, inland marine, or automobile, it is essential that he find out whatever the agent or other company representative who bound or wrote the insurance knew at the time of binding or writing it. Copies should be made of any application, memorandum, or correspondence connected with the issuance of the policy.

A complete report should be made to the insurer in any case involving concealment or misrepresentation.

Cancellation. In a number of cases loss occurs shortly after cancellation of a policy or while efforts are being made to cancel it. The policy prescribes how it may be canceled by the insured and how it may be canceled by the insurer. An effort by either to effect cancellation may be successful or may fail. When such an effort is made by one party to the

contract, self-interest or misunderstanding may cause the other to deny its effectiveness.

When the adjuster encounters circumstances indicating attempted or actual cancellation, he must establish the facts that will prove or disprove that cancellation had been effected prior to the loss. Efforts to cancel may have been commenced too late or may have been otherwise insufficient to complete cancellation before the time of the loss. As cancellation ends the right of any other insurers participating in the insurance to demand contribution from the canceled policy, another insurer is often the real party interested in the effectiveness of efforts to cancel. On the other hand, cancellation will leave the insured without protection if the canceled policy was his only insurance. He may, if he holds other policies, be left with insufficient insurance or, as occasionally happens, he may be left unaffected, if his other insurance will indemnify him. In like manner, other insurers will, in some cases, be unaffected, and in others be left with increased liability. In cases of disputed cancellation, therefore, the parties affected may be the insured and the one insurer, the insured and all insurers, or the insurers only.

Disputes. Cases of disputed cancellation usually occur when an insurer has ordered cancellation, and loss occurs before the policy is surrendered by the insured. The order to cancel may have been handled by the agent in a way that delays actual cancellation. Efforts to substitute another policy for the one to be canceled are responsible for most of the disputes that arise. The agent may represent several insurers. On receiving from one insurer the order to cancel its policy, he will immediately rewrite the insurance and mail the new policy to the insured, asking him to return the policy ordered canceled. The agent handles the situation in this manner in order to keep the insured covered. If the insured accepts the new policy and returns the one asked for, he thereby consents to the cancellation, and the substitution of the new policy for the other is effective. But it sometimes happens that the loss occurs while the insured has both policies in his possession, or before the second policy reaches him. It is under such circumstances that most of the disputes over cancellation and substitution originate.

Disputes may also arise over the status of a policy that the insured wishes to cancel. If there is an apparent failure of the insured's attempt to return the policy or give the agent or insurer a definite statement of intention to

cancel, and if loss occurs while he still has the policy, other insurers insuring the property may dispute the cancellation and demand contribution.

Investigations. The first step ordinarily to be taken when investigating a question of cancellation is a discussion with the agent or other insurer's representative, after which his statements should be summarized and recorded by the adjuster. In some cases the adjuster may find it advisable to have the agent go on record in a letter, a signed statement, or an affidavit. Next, the insured should be questioned, and his statements likewise recorded. Occasionally it may be necessary to examine the insured under oath. If notice of cancellation was given by the agent or other insurer's representative, the date and hour of its receipt by the insured should be established. If the notice was given by word of mouth, face to face, or by telephone, the insured may disagree with the agent or insurer's representative as to the date and hour of the conversation. If word-of-mouth notice was given in the presence of a witness, the witness should be questioned and his statements recorded. In many cases notice of cancellation is given by registered mail. In such cases the adjuster should make an abstract of the notice and record the date and signature on the registry return card. In states where statutes provide special methods of cancellation, the investigation should follow the procedure thus laid down, while in localities like New York City, where special customs have been established and are acquiesced in by all insurers, the procedure required by custom should be followed.

Reports. The adjuster's report on a case of disputed cancellation should state both sides of the controversy and ordinarily should also state the adjuster's own conclusion and recommendation. In many cases, however, he will find himself representing all insurers interested. To avoid embarrassment in these cases the report may well be factual only, omitting conclusions or recommendations.

Arbitration. It has become a general practice for insurers involved in a dispute over efforts to cancel and substitute policies to submit the dispute to arbitration, rather than allow it to become the subject of litigation in which the insured would be burdened with the legal expense of determining which insurer should pay him.

Cancellation after Loss. The adjuster investigating a loss may find dangerous physical or moral conditions requiring immediate reporting to the insurer so that it may order cancellation of its policy pending the adjust-

ment, or to take effect at the time the loss is paid. In some cases the adjuster will be instructed to arrange for the cancellation because his contact with the insured affords opportunity for serving notice of cancellation or effecting it by agreement. The adjuster should act promptly in such cases, as otherwise he will be subject to severe criticism if a second loss occurs before liability is ended. If cancellation pending adjustment is requested, he should enter into a written agreement with the insured, fixing the date and hour of cancellation. If the insured will not execute an agreement, the adjuster should give him written notice of cancellation and at the same time make a tender of the return premium. The delivery of the notice and the tender should be made in the presence of a witness. Refusal to proceed with the adjustment until an agreement is executed will often overcome objections on the part of the insured. If cancellation on payment of the loss is directed, it can generally be arranged for by stipulation, oral in many instances but properly put in writing when dealing with unreliable persons. In a case of doubtful liability that the insurer elects to compromise rather than litigate, it is usual to make cancellation and surrender of the policy one of the conditions of settlement. It is well, in such a case, to have written across the face of the proof of loss, preferably in red ink,

This settlement is in compromise and includes payment of return premium, cancellation, and surrender of the policy.

The Loss. The date, hour, and cause of loss must be determined and, in connection with many claims, the location at which it occurred. Date and hour place the loss as occurring within or without the term of the policy. The hour is particularly important if a policy commenced or expired on the day of the loss. The cause—fire, explosion, windstorm, water damage, theft, collision, or other peril—will determine whether the loss is one that is covered by the policy. Who first discovered the loss, how he came to do so, and what notice he gave of it is often important. As some losses are caused by the insured's willful destruction or damage of the property, and as property which has been concealed or disposed of is sometimes fraudulently reported to the insurer as stolen or lost, any circumstances suggesting fraud must be investigated.¹

¹ Attention has already been directed to the fraudulent act of reporting losses which occurred before the insurance was procured. See p. 120.

Fire. The investigation of a fire loss includes the date, hour, place of origin, probable cause, by whom discovered, when and how alarm was given, what fire-fighting apparatus and water supply were used, the nature and extent of destruction or damage, and the features of the property or the risk that were responsible for the origin of the fire or the extent of damages, or that might cause fires in the future.

In fixing the hour of the fire, the adjuster should compare the statement of the insured with any other evidence to be had. In the proof of loss prescribed by the fire-insurance policy, the insured is required to state under oath his knowledge or belief as to the time. In practically all cities records are kept by the fire departments showing the time of fire alarms. While there are no such records in country districts, the people are alert to the happening of fire, and there is usually little difficulty in fixing the time with a fair degree of accuracy. When the exact time is a matter of importance, the statements of neighbors or passers-by should be recorded.

Isolated property is occasionally destroyed by brush or forest fires. As such fires are often fought by the owners of threatened property, rangers, or other persons, information as to the time when the fire reached a given place can sometimes be had from the fire fighters. If they were not near enough to the property to note when it took fire, the time can be approximated from the rate of speed at which the fire was moving. In some cases, however, the time at which an isolated piece of property was destroyed cannot be fixed. When dealing with such a case, the adjuster should submit his findings and state his opinion to the insurer but make no adjustment until directed to do so.

Because damage done by a friendly fire is not covered by the policy, the adjuster must establish whether the fire was hostile or friendly. There is generally little difficulty in drawing the line between friendly and hostile fire, as fire leaves a very definite mark. The chair left too near a fireplace or stove and scorched without ignition speaks for itself. The lack of telltale marks on the floor corroborates its mute testimony. The same is true of the room and its furnishings smudged by soot from a smoking oil stove. But in some situations it is hard to determine just what did happen. In accidents involving oil-burning heating mechanisms under hot-air furnaces or steam or hot-water heating boilers, it may be questionable whether fire occurred outside the limits of where it was intended to burn. When the

fire-insurance policy contains an Extended Coverage Endorsement including the smoke or smudge cover, there is no problem. Occasionally furnaces containing molten metal or glass will break and pour their contents over the surrounding floor. The intense heat will do great damage but, because of the excitement and confusion that often follow a furnace break, it will be impossible for the adjuster to develop any testimony that will determine whether the surrounding damage was caused solely by radiated heat or by resulting fire. If the insurance is subject to the molten-metal-or-glass clause, the situation is simplified.

Heat without combustion, caused by electrical action, is not fire, but many difficult situations are presented by burnt-out generators, motors, appliances, cables, and wires. In most of these situations all real damage is done by the intense heat electrically generated in the conducting material and before the resulting fire consumes the residue of the already roasted and worthless insulation. These situations should be investigated by competent electrical engineers.

Fires are classified according to the place of origin as *on-premises*, *communicated*, or *extended*. A communicated fire is often described as caused by exposure, the exposure being *internal* if the fire that communicated to the insured property started in another occupancy in the same building, or *external* if it started outside the building. The terms "communicated" or "extended" are properly used in describing losses caused by smoke, water, or falling debris in premises beyond the range of the fire itself. If a fire originates because of negligence on the part of someone other than the insured, his agents, or his employees, the person or organization responsible for it should be located, and the facts indicating negligence should be established as a preparation for subrogation proceedings.

Fires are classified according to their causes as *accidental* or *incendiary*.

If a fire is accidental, the cause and place of its origin can, in many instances, be determined. Fires originating in proximity to defective heating devices, on shingle roofs from falling sparks, from careless handling of hot or burning materials, from overheated bearings, or from electrical disturbances are examples. While in many cases, when the property is destroyed or severely burned, the cause and place of the fire's origin cannot be determined, a careful investigation will often develop evidence from which a plausible theory of origin can be deduced. Such evidence should be sifted until, by elimination, all other theories can be abandoned, or

until it becomes certain that no definite conclusion can be reached. Should the latter be the case, the adjuster can report the fire only as of unknown or undetermined origin.

The National Board of Fire Underwriters has classified the causes of accidental fires into 26 groups. The student adjuster should familiarize himself with them in order to use in his reports the accepted language of the business.¹

Spontaneous Ignition. In some kinds of property subject to spontaneous ignition, destructive fermentation or chemical change precedes the outbreak of fire. When it does, the value of the property will have been destroyed by the fermentation or change before ignition takes place, and there will be no loss by fire, because the fire will destroy only the worthless mass. Wool, when wet, may first heat, then disintegrate, then take fire. Its value is destroyed by the heat and the disintegration. In coal piles a hot spot may develop and ignite, causing a true fire to spread throughout the rest of the pile. In hay barns, spontaneous combustion may decompose and fire hay that has been stored while wet and destroy both the remains of the hay and the barn. In losses caused by spontaneous ignition, the question of damage done before the outbreak of fire must be considered and all circumstances carefully investigated.

Incendiary Fires. Incendiary fires fall into two general classes: those set for the purpose of collecting insurance and those set for other reasons. In case of a suspected or demonstrable incendiary fire, it is the adjuster's task to determine whether the insured or an outsider is to be suspected or is guilty. In reports on incendiary fires, *inside incendiarism* indicates that the insured caused or procured the fire, and *outside incendiarism* that an outsider was the incendiary.

Property is sometimes set on fire by the insured or payee named in the policy in order to collect the insurance. The interested person may himself start the fire, hire another to be the *torch*, or omit some act of care, knowing that fire will result. Occasionally property is set on fire by persons who hold no interest in it or in the insurance. Malice or spite, desire for excitement, desire to thwart a rival, desire to rid a neighborhood of objectionable property, or efforts to conceal thefts or other crimes are motives. The extent of destruction or damage done by an incendiary fire will, in many cases, be aggravated by the use of inflammables or by arrangements

¹ See Prentiss B. Reed, "Fire Insurance Underwriting," Chap. VI.

specifically made to spread fire, impede fire fighting, or cause a rapid deterioration of any property not consumed.

Intentional Carelessness. Carelessness intended to result in fire takes many forms and is difficult to prove. Failure to repair a broken or worn heating device, failure to remove inflammable litter, failure to grease important bearings, failure to keep fire doors, equipment, and alarm systems in order may be unintentional or may be intentional.

Suspicious Fires. If circumstances arouse suspicion of incendiarism, the adjuster should promptly find out (1) who was the last person to have access to the property, (2) what persons, if any, were on the property at the time of the fire, (3) if the property was a building or was housed in a building and if the building was closed, how many keys there were, who ordinarily carried them, and where each key was at the time the fire was discovered, (4) what odors and what kind of smoke were noted during the progress of the fire, (5) whether there were any explosions during the fire, and (6) whether the fire spread with unusual rapidity. He should also make a careful inspection of the premises or the debris and note their appearance, giving special attention to anything indicating the presence of an inflammable agent. If suspicion points to a person, his movements and declarations both before and after the fire should be investigated. Fire- and police-department records should be checked, and any local fire marshal interviewed.

In suspicious fires involving stock companies, the National Board of Fire Underwriters, and in such fires involving mutual companies, the Mill Mutual Fire Prevention Bureau will make an investigation on request of a member company.

Fires Set to Collect Insurance. The reasons for setting fires to collect insurance are (1) financial pressure on the insured or the payee of the insurance, (2) greed, and (3) desperation when property may be destroyed by some peril against which there is no insurance or may be lost to some adverse interest that threatens to take possession of it.

Financial pressure may cause a policyholder to set fire to valuable property that cannot be promptly sold or used as collateral but that will produce insurance money if burned. Mortgagees or other payees who are overloaded with good but slow paper may set fire to insured property in which they are interested. Greed may, in one case, lead a policyholder to set fire to valuable but overinsured property; in another, to a collection

of insured articles that are worn or obsolete; and in still another, to property that has become a frozen asset. Desperation may drive a person threatened with loss of his property to set it on fire to collect the insurance.

Fires set for the purpose of collecting insurance range in size and seriousness from the closet fire intended to destroy a few old garments and produce an insurance payment of less than \$100 to the fires that destroy large buildings, stores, factories, warehouses, lumberyards, or other property. In all these fires, there are only a few methods that can be followed by the incendiaries in their efforts to get money. As noted by the author in an experience extending over some 40 years, they seem to be (1) the burning of unsalable or useless property, or property hard to sell or of little use, for the purpose of creating a sufficient appearance of loss or damage to support a claim, (2) the burning of salable or useful property, or property ordinarily so, that otherwise cannot be promptly converted into money or successfully used as collateral to relieve financial pressure, or that may be lost to an adverse interest or destroyed or damaged by a peril not insured against, (3) the burning of a relatively small value to be followed by the presentation to the insurer of a large claim supported by fictitious books or other spurious records.

In a great number of fires set for the purpose of collecting insurance money, various combinations of the methods described will be used. Method 3 is the one that an able and aggressive adjuster can most successfully combat. Method 2 presents the greatest difficulty and can seldom be successfully resisted unless a "break" brings a confession. Method 1 can often be exposed but has to be fought by painstaking investigation which must embrace a great number of related circumstances.

Burning of worthless property. In ordinary times the most frequently encountered kind of fire set for the purpose of collecting insurance is the one prepared for and accomplished by method 1. The furtive or hard-pressed holder of a household-furniture policy may hang discarded clothing in a closet, arrange a candle and newspaper to start a fire, and go for a call on a neighbor so that he can account for his whereabouts when the fire is discovered. He hopes that the clothes will be burned badly enough to make it impossible for the adjuster to determine their lack of value before the fire, but hopes there will be enough pieces left to make it possible for the adjuster to count the garments when he comes to adjust the loss. The event is planned in the hope that the policyholder can pass off the

valueless articles as valuable and get at least something more out of his insurance than he could from the old-clothes man. Sometimes the trick of bringing in damaged articles after the fire is employed, as its use reduces the chance of too little or too much burning of the articles intended for exhibition to the adjuster.

The same method and motive underlie the fraudulent fires started by owners of old buildings, out-of-date fixtures, worn-out machinery, and stocks that are out of style or out of season. When obsolescence has overtaken property, or deterioration has set in, there is a reduced market for it, perhaps no market. The owner may, therefore, decide to offer it to his insurer in the shape of a claim.

Some serious household-furniture losses have been arranged by accumulating articles at low cost and using them to create the appearance of great value. Secondhand furniture is made to appear as new, and frequently reproductions are represented to be antiques. Faked pictures and other spurious works of art, because of the high value, small bulk, and great susceptibility to injury that inheres in such articles when they are genuine, are frequently used by incendiaries as material for their operations.

In the mercantile world great use is made of similar deception in connection with incendiary fires. Here the adjuster encounters the seasonal stock that did not sell, the broken stock of which only unsalable lots remain, the job-lot stock, the stock that has deteriorated because of improper conditions of housing, packing, and use, the obsolete, out-of-style stock, and the stock infested by vermin or carrying disease germs, *e.g.*, those of anthrax. Groups of men have made a business of furnishing partly burned merchandise to be used in supporting claims.

Burning of valuable property. At times financial needs lead a person to set fire to what is ordinarily salable or useful property in order to raise money on his insurance. A fire of this kind may involve a piece of property that is overlarge or a stock of good merchandise that cannot be sold because of market conditions. Such a fire is rather unusual except in panic times or in case of acute individual misfortune. Following the market collapse of 1920 when the mercantile world was heavily overstocked, there were innumerable suspicious fires and many cases of proved incendiarism in which good and ordinarily salable merchandise, belonging to owners whose cash and credit resources had been exhausted, was

deliberately set on fire. Merchants in financial distress were often approached by professional arson gangs with proposals to arrange for a fire and set it so that it would burn the merchandise badly enough to render it unfit for sale in the ordinary channels of trade, but not so badly that it could not be inventoried after the fire. These gangs became highly proficient. They learned how to place the stock so that it would be burned to the proper degree, and they learned how to set the fire so that there was little chance for the authorities to find out how it started. Following such a fire it was difficult to determine the amount of loss except by selling the salvage to someone who could use badly damaged goods, and as a result the merchant generally succeeded in having the entire stock taken off his hands at the expense of the insurance companies.

Burning of property that might be lost. The earlier editions of the New York Standard Fire Policy recognized the hazard attaching to property that the insured might lose by foreclosure proceedings or by sale under a mortgage or trust deed. It was, therefore, stipulated in those policies that, unless otherwise provided by writing upon the policy, it would become void if, with the knowledge of the insured, foreclosure proceedings were begun or notice given of sale under either kind of instrument. The instinct to protect himself is aroused when the insured becomes aware that he may lose the property or the equity he has in it. Many incendiary fires have resulted from such a situation. As a rule, property does not bring its real value at a forced sale and, rather than face the result of one, the insured who is willing to commit arson tries to realize on his insurance. There are cases of clouded titles because of which a person fears he cannot hold the property. There are others in which a birth or a marriage may change a person's fortune adversely, and the prospect of the one or the other may lead to a fire.

Occasionally property may be threatened with destruction by a peril that is not and perhaps cannot be insured against, and the owner in desperation will burn it to save himself from loss. Property threatened by flood or erosion, or by a mine cave-in, is an example, also buildings ravaged by termites.

Burning of small quantity of property. The scheming or desperate person who has no great amount of property to lose will sometimes arrange to burn his premises in such a fashion that no physical check can be made of the destruction and will try to support by fictitious evidence a claim far

in excess of the actual loss. Burnings of this kind necessarily involve property that can be obliterated by fire so that the destruction claimed will at least seem possible when the fictitious claim is presented to the adjuster. Sometimes a flimsily built structure is burned, and claim is made, accompanied by appropriate plans and specifications for a substantial structure of the same outside measurements. Household furniture lends itself readily to burnings of this kind. A small amount of furniture and wearing apparel will be burned, and an inventory presented that will show quantities and values far in excess of those actually involved. Mercantile losses offer the best field for incendiary ventures of this sort, as books and records play a more prominent part in mercantile losses than in others and can be made by skillful falsification to show values that never existed or, if they did, that had been greatly reduced when the fire occurred. Sometimes the details of the method are changed a bit; instead of falsifying the records and running the risk of having the forgeries discovered by a painstaking adjuster or accountant, the records are kept honestly and, just before the fire is to occur, the stock is almost all moved out. The income tax has been responsible for much evasive accounting, and the overcrowding of the accounting profession has led some accountants to succumb to temptation and sell their service for dishonest purposes. Consequently, the incendiary who expects to gain through an inflated merchandise account generally works in conjunction with an accountant of shady reputation.

The present situation. Since the early 1930s, incendiary fires set for the purpose of collecting insurance have practically disappeared. In many states statutes have been enacted providing for a moratorium on foreclosures. The federal government has made it easy to borrow money. Perhaps the actions of the states and the federal government have made such fires unnecessary. Whether there will be a reappearance of these fires is a matter of speculation.

Fires Set for Other Reasons. Fires are sometimes set for other reasons than that of collecting insurance. Malicious fires attend family feuds, neighborhood irritations, labor troubles, agricultural distress, business rivalry, and crime. Occasionally spite fires are set to vent the incendiary's spleen against the general economic scheme of things. The pyromaniac, the hobo, and the disgruntled trespasser are responsible for some malicious fires. Occasionally a volunteer fireman will be apprehended setting fire to property and will confess that he started numerous other fires because

of his love of excitement. A volunteer fireman of weak character who is paid for each fire he attends will have a financial temptation to start fires.

A costly class of incendiary fires—not started in order to collect insurance—is the warehouse or other bailee-risk fire in which premises are burned in the hope of destroying the evidence of a shortage of goods due to surreptitious removals. Occasionally burglars willfully burn property in the hope of concealing their burglary or of delaying pursuit. On rare occasions incendiarism is used to hide murder. Family feuds are responsible for a few incendiary fires, generally in connection with efforts to distribute an estate or contest a will. Neighborhood irritations in the form of premises that are offensive, that depreciate adjacent values, or whose occupants are objectionable, are responsible for some fires. The fire resulting from labor troubles, whether a minor one or a serious one attendant upon a strike, was formerly a frequent occurrence; in recent years, there has been a tendency to use other forms of sabotage, notably acid throwing, machinery wrecking, and stench bombs. Agricultural distress expresses itself in barn burning and the firing of warehouses or other premises where surplus products are stored. Fires due to business rivalry have declined in importance. Today they are generally encountered only in enterprises controlled, or preyed upon, by gangsters.

Incendiary fires not set or procured by policyholders are discussed because their investigation by the adjuster must be sufficient to warrant him in reporting that the insured is in no way connected with the origin, also, whether there are any circumstances indicating that the property, when repaired or replaced, will again be burned, or that other property in which the insurer may be interested is threatened.

Burglars' Torches. At times burglars seriously damage a safe or vault when trying to make entry with an acetylene torch or an electric arc. Such damage is collectible under burglary policies. If willfully or by accident a burglar sets fire to premises, the fire insurer is liable, but any evidence of breakage or theft should be collected as the fire insurer is not liable for either.

Fire Loss Caused by Order of Civil Authority. The health officers of a district may order a building burned because it has become a breeding place of disease, or they may fumigate a building with sulphur candles, and it may take fire because proper precautions were not taken when the candles were placed.

In case of a conflagration, the fire department may dynamite or pull down structures in order to make a firebreak and stop the spread of fire.

In any case involving fire loss caused by order of civil authority, some public officer has generally issued the order causing the loss. Ordinarily, it will be a matter of record, and the adjuster can get a copy of the order. If, however, the order was oral, the person who gave it should be questioned unless it is a matter of common knowledge.

Fire Fighting. Ordinarily, investigation of the fighting of the fire is not necessary. The premises will speak for themselves, and there will be no need for comment in the adjuster's report. But in large or unusual losses and in losses involving property privately protected, the adjuster should find out and report how the fire was fought, whether the private protection proved to be adequate, and what was the behavior of the personnel that manned it. If a sprinklered risk is involved, the adjuster should check the heads that opened and report the number.

Many fires produce unexpectedly large losses due to delayed alarms, tardy response of the fire-fighting forces, faulty equipment, poor tactics, or inadequate water supply or pressure. In reporting on such fires, the adjuster should present details clearly and dispassionately.

Nature and Extent of Damage. The adjuster should note what parts of the structure, contents, or other property were burned, scorched, heated, or smoked, what may have collapsed as a result of the fire, what may have been damaged by falling debris, what was marred or broken by fire fighters, what was wet, and what has been left exposed to the weather or other influences that may cause further damage.¹

Features of Risk or Property Affecting Loss. In large and unusual losses, the adjuster should note the details of construction, occupancy, protection, or exposure that were responsible for the origin of the fire, its spread or confinement, or that increased or reduced the amount of damage ordinarily to be expected. He should also note any circumstances that may indicate whether a similar loss is probable in the future.

Lightning. Lightning generally shatters any poor conducting material that it strikes—brick, stone, tile, and wood being examples. It sometimes fuses metal but rarely damages metal that is grounded. It often sets fire to buildings, principally farm buildings. It does great damage to electrical equipment by striking power lines or by causing induced disturbances

¹ The subject is discussed in detail in Chaps. 9, 11, and 12.

sufficiently powerful to rupture insulation and produce short circuits that overload and burn out the coils of transformers, motors, or generators. Various clauses are incorporated in forms covering electrical equipment, the purpose of which is to exempt the insurer from liability for loss or damage to electrical equipment due to electrical action. No adjuster should attempt to handle the investigation of serious damage to important electrical equipment without the aid of a competent electrical engineer.

A number of troublesome claims arise as the result of wind damage when the claimants do not carry windstorm insurance. Wind of high velocity frequently accompanies thunderstorms, blowing over chimneys or damaging other parts of a building. Owners who do not hold windstorm insurance will assert that the damage was due to lightning, giving the adjuster a difficult problem to handle, as friends and neighbors will support the assertions although the physical evidence may show only the effect of wind action. The investigation of such claims requires that the adjuster search the neighborhood for eyewitnesses. They are generally hard to find, as most persons go indoors when a storm begins and rarely see what happens to nearby property. The increased use of the Extended Coverage Endorsement has greatly reduced the number of troublesome claims of this sort.

If a building is damaged or set on fire by lightning, the adjuster should note in his report whether or not it was protected by lightning rods.

Other Perils Commonly Insured Against. Investigation of losses caused by windstorm, hail, explosion, riot, civil commotion, vandalism or malicious mischief, aircraft or vehicles, smoke, sprinkler leakage, water damage, theft, or collision must be guided by the provisions of the insurance involved. Generally, several of the perils are covered in combination with fire in a single contract. Occasionally, the perils are covered by separate contracts. When so covered, investigation must be made of circumstances indicating the amount of loss caused by each peril.

Perils Included in Extended Coverage. Fire-insurance policies quite generally carry endorsements extending coverage to include the perils of windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke. There are provisions in the endorsements limiting the coverage against each peril. An important part of the investigation of losses under the endorsements is finding out whether any limitation is applicable in a given case.

What follows is based on current forms of the endorsement, which may be changed at any time.

Windstorm and Hail. The investigation of a windstorm or hail loss should cover date and hour, wind direction and velocity, often to be had from a nearby weather station report, and any circumstance indicating that the loss or any part of it is not covered by the insurance. The limitations of coverage against windstorm and hail in the January, 1951, edition of the Extended Coverage Endorsement are:

Provisions Applicable Only to Windstorm and Hail: This Company shall not be liable for loss caused directly or indirectly by (a) frost or cold weather or (b) ice (other than hail), snowstorm, tidal wave, high water or overflow, whether driven by wind or not.

This Company shall not be liable for loss to the interior of the building or the property covered therein caused, (a) by rain, snow, sand or dust, whether driven by wind or not, unless the building covered or containing the property covered shall first sustain an actual damage to roof or walls by the direct force of wind or hail and then shall be liable for loss to the interior of the building or the property covered therein as may be caused by rain, snow, sand or dust entering the building through openings in the roof or walls made by direct action of wind or hail or (b) by water from sprinkler equipment or other piping, unless such equipment or piping be damaged as a direct result of wind or hail.

Unless liability therefor is specifically assumed by endorsement to this Extended Coverage Endorsement, this Company shall not be liable for damage to the following property: (a) grain, hay, straw or other crops outside of buildings, or (b) windmills, windpumps or their towers, or (c) crop silos (or their contents), or (d) buildings (or their contents) in process of construction or reconstruction unless entirely enclosed and under roof with all outside doors and windows permanently in place.

Investigation of windstorm losses involving plate glass should determine whether the glass is also covered by plate-glass insurance.

Frost or cold-weather claims are infrequent. No such claim has ever come under the author's observation.

Ice losses result from falling ice, encrusted on the branches of trees or the upper parts of buildings during an ice storm, and from floating ice on bodies of water. In falling-ice losses, the breakage or other damage done by the ice and the statements of witnesses as to what happened is, ordinarily, the only evidence the adjuster can develop. In floating-ice losses the property is generally damaged near the ground or the water

level. True wind damage is generally high upon a structure. Photographs are useful in floating-ice losses.

Snowstorm losses occur when so much snow falls on the roof of a building that its weight displaces or breaks the roof timbers. The condition of the roof and the absence of other damage in the immediate vicinity of the property are the facts proving the cause of loss is not wind. Here, again, photographs are desirable.

Losses due to tidal wave, high water, or overflow, whether driven by wind or not, occur on the shores of the ocean and other bodies of water, along the banks of rivers and streams, or in low-lying areas, subject to overflow. The tidal wave, or storm tide, as it is also called, that accompanies hurricanes and other severe storms frequently breaks up and washes away shore structures. It raises the level of the water in bays and estuaries, sometimes enough to overflow the shores and flood structures built on them.

Investigation of such losses requires an inspection of the property or, if it has been washed away by wave action or floated off by overflow, an inspection of the site where it stood. Damage to property that is in evidence should be noted. Water marks left by high water on or in buildings inundated should be observed and the depth of the water in the structure determined by measuring their height. Photographs are useful. If the property has been washed away or floated off, the height attained at the site by the water should be determined if possible. In all losses involving wave wash or inundation, the sequence of events should be a subject of inquiry. Available witnesses should be questioned to determine the course of the storm and whether there was any wind damage to the property prior to the time the water reached it. In many instances, no witnesses are available, as few persons care to be out of doors during a violent storm.

In river country subject to overflow, difficult tasks are set for the adjuster by claimants who state that just before high water reached their property it was blown to pieces by wind.

As damage to the interior of a building, or to property in it, caused by rain, snow, sand, or dust, whether driven by wind or not, is not covered unless there was a prior damage to the roof or walls by the wind or hail, investigation must be made in cases involving interior damage to determine whether any such prior damage occurred. The situation most fre-

quently encountered is one in which rain is driven through cracks around windows and doors or penetrates a leaky roof, damaging plaster and decorations. Furthermore, only so much of any interior damage is covered as is caused by rain, snow, sand, or dust entering through openings in roof or walls caused by direct action of wind or hail. Investigation required in cases of interior damage is a careful inspection of the roof and walls of the building for openings made by wind or hail. In losses caused partly by rain entering through such openings and partly by rain that entered around windows or through leaks, the two sorts of damage should be separately listed. In doubtful situations, any persons who were on the premises during the storm should be questioned.

A common misconception of the windstorm contract is that it covers damage to the interior of a building due to *water* entering through an opening caused by the wind. Claims are, therefore, made for damage done by water that pours through a cellar door that has been blown open or through a basement window. Ground water is not rain. Such causes of loss are not covered.

The provision that interior damage done by water from sprinkler equipment or other piping shall not be covered, unless such equipment or piping is damaged as a direct result of wind or hail, is, in the author's opinion, superfluous.

The provision listing excepted property:

(a) grain, hay, straw, or other crops outside of buildings, (b) windmills, wind-pumps, or their towers, (c) crop silos (or their contents), (d) buildings (or their contents) in process of construction or reconstruction unless entirely enclosed and under roof with all outside doors and windows permanently in place,

requires check of any claim for such property against the policy to see whether the policy was endorsed to cover it.

Small losses often result from wind slamming swinging doors or blinds that have been left open and breaking the glass in doors or windows. Blowing through an open house, wind sometimes blows fragile articles off tables or blows breakable articles over or off their supports. Pictures and mirrors hung on walls are examples. Such losses are not true windstorm losses unless the wind is blowing at storm velocity. Investigation should include an inspection of the broken articles and the door or window through which the wind entered. Occupants should be questioned as to

weather and wind velocity. Any available weather record may be useful.

Explosion. When investigating explosion losses, the evidence of when and where the explosion occurred, and what caused it should be developed. If fire accompanied the explosion, it may be necessary to establish, if possible, the sequence of events leading up to and following the explosion. The Extended Coverage Endorsement reads:

Provisions Applicable Only to Explosion: Loss by explosion shall include direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox (or the combustion chamber) of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom but this Company shall not be liable for loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines or fly-wheels, owned, operated or controlled by the Insured or located in the building(s) described in this policy.

Any other explosion clause made a part of this policy is superseded by this endorsement.

Evidence of explosion includes ruptured, shattered, broken, or cracked material near the place of the explosion and, in many instances, fragments scattered over a surrounding area. It also includes what the persons who witnessed the occurrence have to say about it.

Webster's dictionary defines explosion as

Act of exploding; detonation; a violent bursting or expansion with noise, following the sudden production of great pressure, as in the case of explosives, or a sudden release of pressure, as in the disruption of a steam boiler; also, the noise made by such bursting.

Engineers and physicists think of explosion as the rapid and destructive expansion of a gas or gases, sometimes resulting from the failure of containers of compressed gases; sometimes, from ignition or detonation of gases or other substances possessing explosive characteristics.

The courts have been reluctant to accept the belief of the engineers and the physicists, and in explosion cases have generally allowed the jury to decide whether the evidence presented proved that an explosion had occurred. Consequently, insurers have, in many instances, been held liable for kinds of losses they never intended to cover under contracts insuring against explosion. Efforts are being made to define explosion, and by the time this book is off the press, a definition of explosion may have been incorporated in the Extended Coverage Endorsement. Pending

the adoption by underwriters of such a definition, the adjuster should proceed on the assumption that a true explosion is the result of the sudden creation or expansion of gas. A variety of gases, fluids, and solids will explode if ignited, heated, or detonated. A mixture of inflammable gas with air or oxygen, or of inflammable dust with air, will, if ignited, explode. Excessive pressure of air or other gas pumped into a tank will explode it.

Ruptures, breakages, and displacements of tanks, containers, pipes, or valves, due to the pressure of fluids, whether static or in motion, are not explosions. The forcing open of the sides or bottoms of bins or structures overloaded with grain, or other masses made up of small particles, no matter how sudden or violent, are not explosions.

Whether insurance against explosion covers damage due to *implosion*, that is, a bursting inward rather than outward, such as occasionally happens when the contents of a tank or other container are pumped out without admitting air to equalize internal and external pressure, is an unsettled question.

Explosions, like fires, may be accidental or intentional and should be investigated accordingly.

The inherent explosion hazard is high in gas-producing plants, chemical works, and plants that make explosives, owing to the character of the materials they use. It is dangerous in grain elevators, flour mills, and starch mills because of the inflammable dust they produce; also in some textile plants where operations create quantities of flying lint. In garages, many manufacturing plants, and in stores, offices, and dwellings there is some degree of inherent explosion hazard due to heating fuels, cleaning fluids, solvents, and other inflammable substances. Occasionally there is a hazard due to operations requiring air or gas to be kept under pressure.

The location of some property exposes it to damage from explosion occurring in other property. Property surrounding gas plants, or gas-storage holders, or tanks containing explosive gases or highly inflammable liquids is an example.

Intentional explosions are legally set off by blasters and oil-well operators. Explosion insurance is liable for damage done to other property by such intentionally caused explosion, as there is no doctrine of friendly explosion as there is of friendly fire. Intentional explosions are criminally caused by saboteurs, gangsters, and individual bomb throwers. On rare

occasions, a policyholder, generally in trying to burn his property in order to collect insurance, willfully destroys it by explosion. Explosives are also used by burglars to blow open safes and vaults. When investigating an explosion loss due to the criminal use of an explosive, the adjuster should bear in mind that burglary insurance covers damage done by persons who break and enter and should find out whether any burglary insurance is carried.

Investigation of explosion losses should include inspection and examination of the remains of the property, or of the site if the property has been obliterated, and the questioning of persons who have any knowledge of the sequence of events leading up to and immediately following the explosion. Evidence to be gathered when any claim is made for excepted losses, explosion, rupture, or bursting of steam boilers, steam pipes, steam turbines, or flywheels, should be directed toward determining whether the article of property that exploded, ruptured, or burst was owned, operated, or controlled by the insured and whether it was located within the building or buildings covered by the policy or outside.

When property is covered only by fire insurance and is damaged by both fire and explosion, investigation should seek to determine whether explosion preceded or followed the fire. If explosion occurred first, evidence as to the amount of loss caused by the fire must be developed. The fire-insurance policy excludes loss due to explosion and, in case of explosion followed by fire, covers only the ensuing fire loss. The courts have held, without exception, that if fire occurs first and causes explosion, the explosion is an incident of the fire and the explosion loss is part of the fire loss.

When property is covered by separate fire and explosion contracts, investigation should follow the same course.

The covering of both fire and explosion by the use of fire policies with Extended Coverage Endorsements makes it unnecessary to separate fire and explosion damage in most losses involving explosion.

When property is damaged by explosion occurring as the result of negligence on the part of any person who is not a party to the insurance contract, the insurer, on paying the loss, acquires a right of action against such person, as in case of fire.

As a result of the great explosion at Texas City in 1947, suits have been brought against the United States Government for damages. A great

number of cases are brought against blasters for damage to adjacent property caused by flying debris or concussion. Investigation of losses due to blasting operations should determine whether the blaster was negligent, used excessive charges, set off blasts too frequently, drilled or blasted too close to other property, or failed to use protective mats to prevent debris from being blown into the air. Any investigation which is made of a blasting loss should include questioning the blaster as to possible insurance held by him for the benefit of adjacent property owners. The adjuster should familiarize himself with the liability of a blaster in the state where any damage caused by blasting occurred.

Riot and Civil Commotion. There are two general kinds of riot losses: one caused by a riot of such proportions as to alarm an entire city or neighborhood, the other caused by a group of persons who operate in a stealthy manner. No special investigation is necessary if a riot is a matter of common knowledge, was handled by the police, and was noted in the newspapers. But when claim is made under riot insurance for damage done by persons who gained access to premises by stealth and after damaging or looting them escaped before the neighbors or the police were aware of what was happening, it is essential that the adjuster try to establish by questioning witnesses whether there were more than two persons in the group that caused the loss. Except in states that have provided otherwise by statute,¹ there is no riot unless at least three persons participate in the lawless act. Sometimes premises are entered in the night, the machinery smashed, or the stock cut to pieces, sprinkled with acid, or fouled with a stench bomb. There will be no evidence indicating whether the damage was done by fewer than three persons or by three or more. In such a case there is no proof of riot.

The author has never heard of a claim for loss due to civil commotion. The Extended Coverage Endorsement provides:

Provisions Applicable Only to Riot, Riot Attending a Strike and Civil Commotion: Loss by riot, riot attending a strike or civil commotion shall include direct loss by acts of striking employees of the owner or tenant(s) of the described building(s) while occupied by said striking employees and shall also include direct loss from pillage and looting occurring during and at the immediate place of a riot, riot attending a strike or civil commotion. This Company shall not be liable, how-

¹ A few states have enacted statutes making the joint lawless action of two or more persons a riot.

ever, for loss resulting from damage to or destruction of the described property owing to change in temperature or interruption of operations resulting from riot or strike or occupancy by striking employees or civil commotion, whether or not such loss, due to change in temperature or interruption of operations, is covered by this policy as to other perils.

When loss is the result of breaking and entering or pillage and looting, investigation must determine whether the insured carries burglary insurance that covers it. In the widespread riot in the Harlem district of New York City in 1943, burglary policies and fire policies with Extended Coverage Endorsements shared a large number of losses due to the damaging of fixtures and the carrying off of articles of merchandise by the rioters.

Vandalism and Malicious Mischief. Investigation of vandalism and malicious mischief claims should develop the evidence bearing on cause of loss and, if the premises were vacant, the length of time that they had been vacant when the loss occurred.

The July, 1949, edition of the clause provides:

1. In consideration of \$. premium, and subject to the provisions of this policy of fire insurance and the Extended Coverage Endorsement attached thereto and of this endorsement, the coverage under said Extended Coverage Endorsement is hereby extended to include direct loss to the described property from Vandalism and Malicious Mischief.

2. The term "Vandalism and Malicious Mischief" as used herein is restricted to and includes only willful or malicious physical injury to or destruction of the described property.

3. When this endorsement is attached to a policy covering direct loss to the described property, this Company shall not be liable under this endorsement for any loss

- (a) to glass (other than glass building blocks) constituting a part of the building;
- (b) from pilferage, theft, burglary or larceny;
- (c) by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines or fly-wheels owned, operated or controlled by the Insured or located in the building(s) described in this policy;
- (d) from depreciation, delay, deterioration, change in temperature or humidity, loss of market, nor from any other consequential or indirect loss of any kind.

4. When this endorsement is attached to a policy covering Business Interruption, Tuition Fees, Extra Expense, Rents, Leasehold Interest or Profits and Commissions, this Company shall not be liable under this endorsement for any loss due

to damage to the described property when such damage results from any of the causes listed in subdivisions (b), (c) or (d) of paragraph No. 3 above.

5. The permitted period of vacancy as provided by said fire policy shall apply to liability under this endorsement except when such permitted period is in excess of thirty days, in which case this Company shall not be liable for loss under this endorsement occurring while the described building is vacant beyond a period of thirty days, whether or not such period commenced prior to the inception date of this endorsement.

From an examination of the property and from the stories of the insured or other informed persons, the adjuster should determine whether the damage was willfully and maliciously done, was the result of burglary, or was an accident. If the premises are vacant at the time of inspection or are reported as having been vacant when the loss occurred, evidence of when vacancy began should be developed.

As of November, 1951, the troublesome vandalism and malicious-mischief losses were those in which a person, with malicious intent, does something that puts a heating or cooling system out of commission and, by doing so, causes freezing or putrefaction of foodstuffs or of other property. Such losses are not intended to be covered.

Questionable claims attend burglaries, when disappointed thieves vent their spleen by wrecking the premises.

No body of law governing vandalism and malicious losses has, as yet, been developed by litigation. The adjuster should, therefore, refer doubtful losses to his principal for decision as to liability.

Aircraft and Vehicles. Investigation of losses due to aircraft and vehicles should include an inspection and examination of the damaged property and efforts to identify the aircraft or vehicle that caused the damage. The Extended Coverage Endorsement reads:

Provisions Applicable Only to Loss by Aircraft and Vehicles: The term "vehicles," as used in this endorsement, means vehicles running on land or tracks but not aircraft. Loss by aircraft or by vehicles shall include only direct loss resulting from actual physical contact of an aircraft or a vehicle with property covered hereunder, or with the building containing the property covered hereunder except that loss by aircraft includes direct loss by objects falling therefrom. This Company shall not be liable, however, for loss (a) by any vehicle owned or operated by the Insured or by any tenant of the described premises; (b) by any vehicle to fences, driveways, walks or lawns; (c) to any aircraft or vehicle including

contents thereof other than stocks of aircraft or vehicles in process of manufacture or for sale.

Evidence of aircraft or vehicle damage may be breakage, deformation, scraping, or tearing, due to impact; or wetting, discoloration, contamination, or fouling by the spilling of gasoline, oil, or other substance. In all cases of aircraft or vehicle damage the adjuster should identify, if possible, the pilot of the craft or the driver of the vehicle. Any circumstances indicating negligence of pilot or driver should be noted because of subrogation possibilities. Registrations and operators' licenses should be examined.

Smoke. The language of the Extended Coverage Endorsement is:

Provisions Applicable Only to Smoke: The term "smoke" as used in this endorsement means only smoke due to a sudden, unusual and faulty operation of any heating or cooking unit, only when such unit is connected to a chimney by a smoke pipe, and while in or on the premises described in this policy, excluding, however, smoke from fireplaces or industrial apparatus.

Smoke damage is identified by a deposit of soot or smoke film. Smoke marks should be examined and traced to the unit from which the smoke escaped. If the appearance of the property suggests that the damage resulted from a day-by-day build-up of a small volume of smoke, it may be necessary to question the insured rather closely.

War Risk. The Extended Coverage Endorsement, as to all perils, contains the following exclusions:

War Risk Exclusion Clause: This Company shall not be liable for loss caused directly or indirectly by: (a) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (1) by any government or sovereign power (*de jure* or *de facto*), or by any authority maintaining or using military, naval or air forces; or (2) by military, naval or air forces; or (3) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing atomic fission or radioactive force shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (b) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.

Other Perils Frequently Insured Against. Sprinkler leakage, water damage, theft, and collision are the other perils most commonly insured

against. Sprinkler leakage is sometimes covered by a special policy, sometimes by the Extended Coverage Endorsement used on fire-insurance policies covering sprinklered risks. Water damage may be insured against by a special policy or may be covered along with other perils by an inland-marine policy. Collision is almost always covered in combination with other perils by automobile policies or by inland-marine policies.

Sprinkler Leakage. The first act of the adjuster in his investigation of a sprinkler-leakage claim should be to determine whether the water that did the damage escaped from a sprinkler system or from some other source. Occasionally moisture condenses on the exterior of sprinkler pipes in sufficient volume to drip and damage property directly under the pipes. Unless the damage for which claim is made has been done by water that escaped from a sprinkler system, the sprinkler leakage insurance is not liable for the loss. Tank overflows, collapses, or falls are self-evident and call only for investigation of their cause.

All information needed to complete the printed form sprinkler-leakage loss report should be developed.

Sprinkler leakages are usually caused by freezing, by accidental striking of a head, pipe, or other part of the sprinkler system by an employee carrying a ladder or piling stock, by breaking of belts on overhead pulleys, by corrosion, or by failure of joints under pressure. Some losses are due to falling tanks.

Many claims under sprinkler-leakage policies are made by tenants whose premises have been wet by water that escaped in other premises, generally on a floor above. Investigation of such claims will sometimes result in finding that the water came from overflowing sinks or toilet bowls.

Indications of negligence in the maintenance of the sprinkler system or the care of the premises should be investigated because of subrogation possibilities. At times, a landlord will fail to maintain heat, and the system will freeze. At times, a tenant will overheat a head, as happens in premises where glass bending, brazing, or other processes requiring the use of heat are carried on.

In connection with sprinkler-leakage claims, it is advisable to check with the building superintendent, or other informed person, to determine how long the water flowed and also to examine any broken pipes, elbows, valves, or other parts that may have been responsible for the leakage. In

New York City, it is advisable, in any doubtful case, to ask the New York Fire Rating Organization to make an inspection and report.

Water Damage. The term "water damage" does not have any standardized meaning. It is used in water-damage policies with various restrictions and exclusions, among these, the exclusion of loss due to sprinkler leakage or the backing up of sewers, but it is often used in inland-marine policies with an almost all-embracing intent. The adjuster should check the policy under which claim for water damage is made and find out from what source the water came, how it entered the premises, or how it reached any property not in a building.

Broken service pipes, clogged sinks, toilets, and drains, and leaky roofs are the most frequent causes of water damage. Subrogation possibilities should be investigated.

Theft. Theft is the felonious taking and removing of personal property, with intent to deprive the rightful owner of it. Loss by theft includes damage done to property while in possession of the thieves. In burglaries, property is taken from premises that have been broken into or, in some jurisdictions, entered by stealth. In robberies, it is taken by violence or from the person of one who has been terrorized by threats, or taken from where it was being kept after terrorizing those who were in charge of it. Hijacking, holdups, and stickups are forms of robbery. Larceny covers almost all kinds of thefts, grand larceny meaning the taking of property worth a specified amount or more; petty larceny, of property worth less. Pilferage is theft in small quantities. Pillage and looting are the acts of stripping and carrying away property by rioters, bandits, or the enemy.

Conclusive proof of theft is the apprehension of the thief and his confession that he took the property. Only occasionally is such conclusive proof offered to the adjuster. In the great majority of claims, the evidence does no more than create a probability of theft. Investigation of a theft claim should produce testimony covering when and where the property was last seen and by whom; when its disappearance was first noticed and by whom; who reported the disappearance to the owner or custodian, and when and how; when and by whom the police were notified. It should include an inspection of the location where the property was taken or was last seen, and an examination of police records unless the value involved is trivial.

Thefts are *outside* or *inside* jobs. In an outside job the thief enters the

premises from the outside. In an inside job, the thief may be an associate or employee of the owner and have free access to all parts of the premises.

Inspection of premises where a theft has occurred should develop any evidence of forcible entry by the use of tools, chemicals, or explosives. Such evidence is usually jimmied doors or windows, holes cut in walls or roofs, or blown safes.

Because articles and lots of property can be surreptitiously sold, given away, removed, concealed, wrecked, lost, or destroyed, and afterward reported to the insurer as having been stolen, the adjuster must search for all available evidence whenever the circumstances attending a claim justify the suspicion that no actual theft occurred. One of the oldest frauds in history was the act of the master of a vessel, who surreptitiously sold the cargo, pocketed the proceeds, and afterward reported to the owners that his ship had been looted by pirates.

When property is reported as having been stolen while in the custody of a bailee, other than a common carrier, the adjuster must find out whether the bailee had assumed liability for loss of the bailment by theft and, if not, whether the theft occurred because of his negligence. A common carrier is liable for any loss by theft of property delivered into its possession under a bill of lading or other contract of carriage. Bailees other than carriers are not liable unless theft is due to their negligence.

Personal jewelry and furs, insured under residence-burglary, inland-marine, or personal-property-floater policies produce many claims where conclusive proof of theft is lacking. Some of these claims are fraudulently made to raise money, cover loss caused by careless treatment of property, or conceal from other members of the family the surreptitious giving away of an article.

Jewelry and furs in the hands of merchants and manufacturers attract thieves. They are stolen by shoplifting tactics, by daylight robbery, and by burglaries. There are fewer doubtful and suspicious claims made by merchants and manufacturers than by private owners. The contents of homes, stores, offices, or other occupancies are at times carried away by rioters. In riot policies such an act is described as looting or pillage. It is, however, a theft and must be treated accordingly.

Automobile thieves steal tires, batteries, and other removable equipment, sometimes stripping a car, when the owner has been compelled to leave it because of mechanical trouble, collision, or fire. They also steal

the cars themselves. Sometimes, while a stolen car is in the possession of a thief, he damages it by collision or breakage, or by mistreating it; for example, running it without sufficient lubricants. Because automobiles are expensive to operate, depreciate rapidly, and often require unexpected repairs, there have been many fraudulent theft claims by owners who buy on deferred-payment plans and find difficulty in meeting their obligations. A troublesome type of claim is that made for damage to a car while in the possession of a person who took it for temporary use but with no intent to steal it. Proof of intent is in many cases clouded.

Loaded trucks are halted or driven away to give thieves an opportunity to take their cargoes, which often have high values particularly if they are silks, furs, or liquors. Some fraudulent claims result from prearranged thefts.

When investigating large theft losses, the adjuster should keep in touch with the police, and with the FBI if the theft is one that comes under its jurisdiction. In many cases employment of private detective service is in order. Such employment should always be first approved by the insurer.

Cases of mysterious disappearance should be reported, and no adjustment made until the insurer authorizes it.

Collision. Collision is the striking or dashing of one body against another, or of several bodies against each other. It rarely occurs without leaving unmistakable evidence of what has happened.

Investigation of any claim made for loss or damage by collision calls for examination of the property for evidence of impact or scraping, and for the questioning of witnesses. Many collision losses require special investigation of the possible responsibilities of the owners or operators of the colliding vehicles so that rights of recovery may be pursued.

Mixed Action of Two Perils. In some instances the adjuster finds that property has been damaged by the combined action of a peril insured against and one not insured against. In such instances investigation should determine, if possible, the sequence in which the perils operated, and the damage done by each. As a matter of law, the burden of proof of the amount of loss caused by the peril insured against rests on the insured. If he cannot prove this amount but can prove only the aggregate amount of loss caused by both perils, he is not entitled to collect.

The New York Standard Fire Policy excludes the peril of theft. Thieves

sometimes steal property and try to hide the evidence of theft by setting fire to the premises from which the property was stolen. At other times, they take advantage of the confusion attending a fire to steal while it is burning. During a fire, persons who have access to the premises can commit theft with little chance of detection. After a fire, there is generally some delay in making the premises secure or in removing the salvage to a place of safety, during which the disorder and lack of protection offer further opportunity for theft.

Loss due to theft attending a fire is difficult to prove, except when the fire damage is slight. Many thefts during fires are never even suspected, as the evidence is destroyed with the destruction of the premises. Usually theft is disclosed when vacant shelves or cases in undamaged or slightly damaged sections show that goods have been removed. The adjuster is seldom able to do more than compare the condition of the premises with the inventory of the articles claimed as lost and seek to eliminate from the claim those which because of their indestructibility or their location ought to be in sight.

Theft before a fire is a comparatively frequent occurrence in warehouses and other risks that handle merchandise belonging to bailors. Staple articles easy to sell, such as cotton, silk, liquors, furs, or newly made-up garments are often stolen. When a loss involves property in the custody of a bailee, the adjuster should be on the lookout for shortages. If theft is suspected, the entire contents of the premises may have to be checked, particularly if only one kind of property is handled. In a cotton warehouse, for example, fire damage may be limited to a dozen bales on which the identifying marks have been destroyed. One person may claim ownership of the entire dozen, because a dozen bales of his cotton are missing. This, however, is not enough to prove that the damaged bales are his. A general check-up of the contents of the warehouse may reveal that cotton belonging to other owners is also missing, and that, while there are only a dozen bales to be seen that have been damaged by fire, there has been a theft of many more.

The New York Standard Fire Policy also excludes loss due to explosion, unless fire ensues, in which event liability is limited to the amount of the ensuing fire loss. Because of this stipulation, losses resulting from or following explosions may require intensive investigation.¹ On the other hand,

¹ Repetition here of much that appears on pp. 141-143 seems advisable.

when explosion results from a hostile fire, it is treated as part of the fire, and no separation of fire and explosion damage is necessary. If a collection of gas is exploded by a friendly fire, such as the flame of a gas jet, a match intentionally struck, or the fire in a fireplace or a furnace, the resulting damage is not covered. The claims that are most difficult to handle are those in which the sequence of the fire and the explosion cannot be definitely determined. The widespread use of the Extended Coverage Endorsement, which combines the peril of explosion with that of fire, has greatly reduced the number of troublesome explosion losses. But there are still enough contracts that do not contain the endorsement to produce a substantial number of difficult situations.

Cases are often presented in which loss caused by explosion can be separated from that caused by ensuing fire. If explosion precedes a fire and blows out windows, ruptures the roof, or does other damage that is not obliterated by the ensuing fire, it will be possible to make a fairly accurate separation of the explosion loss and the fire loss. If, however, an explosion occurs inside a frame building, which then burns to the ground, it will be impossible to determine how much loss was due to explosion and how much to fire. A claim for the full amount of the loss caused by the combined action of explosion and ensuing fire will not be sustainable unless the contract contains an Extended Coverage Endorsement or other provision assuming the peril of explosion. If there is no such endorsement or stipulation, the burden of proof is on the insured to establish the amount of the loss due to fire.

The windstorm policy and the windstorm provision in the Extended Coverage Endorsement exclude loss due to tidal wave, high water, or overflow, whether driven by wind or not.¹ In some windstorm losses, the adjuster will find that the roof or other sections of a building have been damaged by wind, while the basement and possibly the first floor have been flooded by high water. In such losses he can establish the depth of the water by marks left on the walls and make an adjustment of the loss caused by the wind to sections of the structure above the marks. But when wind damage and water damage are mixed, and it cannot be determined where the one ends and the other begins, it is impossible to determine the liability of the insurer. In such cases the courts have consistently held that, when the insured cannot prove the amount of damage done by the wind,

¹ Here, again, repetition seems advisable. See pp. 138-140.

as distinguished from the damage done by the high water, he cannot maintain suit against the insurer.

Sometimes a collapse or a breakage in a structure or its equipment is followed by fire or explosion. In such event it is possible that the greater part of the loss, perhaps all of it, had actually been sustained before the fire or explosion occurred. If, for example, a building collapses into a mass of debris, and if the debris is ignited by the fire which was burning in a stove at the time of the collapse, the building is a total loss before the fire begins to burn. In like manner, the pipe to a tank of oil may break, and the oil run out on the floor and there take fire. All oil spilled on the floor was a total loss before it began to burn. A gas main under a concrete basement floor may break owing to the settling of the building and allow gas to escape into the building and explode. The explosion damage above the floor will be covered by explosion insurance, but the cost of tearing up and relaying the concrete floor in the basement will not be covered, as it is a loss due to the breaking of the gas main and not to the explosion which followed.

Losses such as have been described in this section are often termed *mixed losses*, meaning those due to the mixed action of two or more perils. They require careful investigation and clear reporting. Ordinarily they should be worked out by the adjuster to a point at which he can make a justifiable recommendation of what the insurer should do, as it is impossible for a loss man located many miles away from the loss to visualize the situation as clearly as the adjuster can see it.

The Claim. A claim should show in detail the insured's estimate or computation of the amount of loss to the property covered by the policy and should contain such other information as may be necessary to make proper application of the insurance or of any clauses or policy provisions affecting the amount for which the insurance may be liable. Investigation of a claim should include a check of its details, an examination of the evidence the insured offers in support of it, and in many instances a search for additional evidence.

The great majority of claims are made in good faith for losses that are covered by the insurance. On such claims the adjuster spends most of his time investigating the evidence bearing on the amount of loss. In many claims questions of liability of the insurer arise, in some as to the entire amount of loss, in others as to part of the loss, in still others as to the

apportionment of the loss. In these claims, evidence bearing on the existence or extent of liability becomes important. In a few claims, fraud is encountered, and evidence of fraudulent intent becomes highly important.

Claims are presented in the form of estimates, inventories, records, and statements of various kinds. In some claims every detail of value and loss is set forth in writing, in others cost or value figures will be written up, and the amount claimed stated orally. In many small losses the claim will be stated orally and will be written up by the adjuster after he and the insured have agreed upon its details.

Check of Claim. In checking a claim the adjuster should have in mind the following questions:

1. Is the property listed in the claim all or part of the property covered by the policies?
2. If there is more than one item of insurance, is the claim made separately under each item involved, and are the units of property and the items of expense correctly listed under the respective items covering each?
3. Is claim made for total or partial loss on property involved?
4. What evidence, other than his own story and the property itself, does the insured offer in support of the claim?
5. Does the property, if in evidence, its remains, or the space it occupied, or the place from which the insured states that it disappeared, confirm or discredit the evidence offered?
6. Does the claim include
 - a. Property not described in the item; for example, fixtures claimed under an item covering stock?
 - b. Uninsurable property?
 - c. Excepted property on which liability has not been specifically assumed in writing?
 - d. Property at a location not covered?
 - e. Property that had not been reported?
 - f. Property excluded if otherwise insured?
7. Does claim include any loss or expense not covered because
 - a. It was not the direct result of a peril insured against?
 - b. It is specifically excluded?
 - c. It occurred before the insurance became effective?
8. If the insurance is subject to coinsurance, average, or distribution,

is the sound value of the property covered under each item involved stated separately?

9. Are sound value and loss measured by the same yardstick?

10. Are the figures in any estimate, inventory, or statement relative to sound value or loss arithmetically correct?

11. How does the claim compare with the adjuster's ideas of sound value and loss?

12. Does the claim appear to be fraudulent?

Property Listed in Claim. The description and location of the property stated in the insured's estimate, inventory, or statement of claim should be checked against the policy or policies and against the property itself, if it is in evidence. In most losses the check is made almost unconsciously, since the adjuster looking at the claim remembers the property as he saw it and has in mind the coverage shown by the policy, if he has examined it, or by the policy form or abstract which he should have in his file.

Two or More Items of Insurance. When there is more than one item of insurance, the claimant may erroneously claim under one item property covered under another. In some instances, because of inadequate insurance under one item, the claimant will do everything he can to shift some of the property covered under the inadequate item to another item.

In some claims involving two or more items of a fire policy, notably building and contents, covered separately, there will be a list of expenses incurred in protecting the property from further damage, evacuating water, and cleaning up. In such claims the question of how the expenses are to be allocated to the items must be investigated. If rent or business interruption insurance is also involved, the question of allocation must be even more carefully studied.

Total or Partial Loss. The insured will claim a total or partial loss of property involved according to his ideas of what has happened to it. Generally it is obvious, and the insured's idea will be right as to condition even if wrong as to the amount of loss. But there are many claims based on an exaggerated idea of loss or damage, some because of ignorance, some because of uncertainty or bad advice, and others because of the desire to make the largest possible collection under the insurance.

The insured who makes claim for a total loss of a unit of property will assert that it was destroyed or lost. His house may have been burned to the ground, blown away by a tornado, or blasted to pieces by an ex-

plosion. Or he may have lost a camera overboard while photographing a passing ship from a ferryboat. His automobile, which he had parked while he went to a movie, may have been driven off by a thief. In such cases the losses are obviously total. But in other cases the desire to turn property into money, or to get rid of an old article and get a new one, will lead the insured to assert that the loss of a damaged unit is total when, as a matter of fact, it can be repaired and made as good as it was before the loss.

Claims for less than total loss are made on the assumption that the unit can be repaired or reconditioned, in which event the insured will claim the cost of doing so, or perhaps ask an allowance for the damage, with the idea that the allowance will compensate him for the supposed shortened life, impaired usefulness, or changed appearance of the damaged unit. Such is often the case when floors have been wet and have shown signs of buckling but have not buckled badly enough to justify taking up and relaying. If the cork insulation in walls or ceilings of cold-storage plants is wet, its life will be shortened and its insulating quality impaired. It may be inadvisable, however, to tear it out at the time, and the insured will probably claim a percentage of its value. A rug or carpet may be stained or discolored by water or chemicals used in fighting a fire, and even the best of cleaners may not be able to restore its appearance. The claimant may wish to keep the rug and, in addition to the cost of cleaning, will ask an allowance for its changed appearance.

On merchandise, claims for partial loss on articles of stock are often based on the assumption that by reducing the selling price the owner can sell the merchandise to his own trade. But in many instances the owner will assert that his customers will not buy damaged articles and that his loss must be determined by sale of the articles to a salvage buyer.

Partial loss of property covered by an item of insurance may result in an insurance payment reduced because of the application of a coinsurance or average clause. If the loss under the item is equal to or greater than the percentage of value used in the clause, payment is not reduced.

Evidence Offered in Support of Claim. In support of his claim the insured will generally offer an estimate, invoice, inventory, books of account, or a record of cost. In some cases he offers nothing more than his own statements. Whatever is offered is subject to examination and consideration and may suggest special investigation. An estimate, for example, should be

examined to see whether it covers only such repairs or replacements as are necessary to restore the property. It is important to know who made it, and his reputation for competence and integrity. An invoice may call for additional evidence proving delivery of the property to the location of the loss. An inventory may be a record of actual count, weight, or measurement or it may be a list prepared from memory or by guesswork. Books of account may be properly or improperly kept. The unsupported statements of some claimants will be truthful and accurate; those of others will require testing and checking.¹

Check of Evidence against Property. If the property or any part of it is still to be seen, any statement made by the insured or any documentary evidence offered by him in support of his claim should be checked against it. Measurement, count, or weight of what remains should be compared with the measurement, count, or weight stated in the claim. The amount of loss claimed should be considered and its propriety judged according to the appearance of the property.

If the property has been destroyed but the space it occupied can be measured, the maximum quantity that could have been stored in the space can be determined and compared with the quantity stated in the claim.

If property has been reported as stolen or has disappeared under circumstances indicating theft, a scrutiny of the place where the owner or custodian says he last saw it may satisfy the adjuster that he is dealing with a bona-fide loss or lead him to a contrary conclusion.

Check of the insured's evidence against the property will often lead the adjuster to search for other evidence. He may, after checking the insured's estimate against a damaged building, decide to have an independent estimate made for his own benefit.

Property Not Covered. An item of insurance covers only the property described. A building item, for example, does not cover contents. Policies generally provide that certain kinds of property shall not be covered. The New York Standard Fire Policy lists these as "accounts, bills, currency, deeds, evidence of debts, money or securities." Policies also generally provide that other kinds of property shall be covered only if spe-

¹How the several kinds of evidence offered in support of claims are tested is set forth in the chapters dealing with the various kinds of property. See Chaps. 9, 11, and 12.

cifically named in the policy in writing. The same policy lists them as "bullion or manuscripts." Similar provisions appear in almost all policies covering property.

Floater policies often exclude certain kinds of property, also property at certain locations. Reporting policies exclude certain locations and also exclude property that has not been reported.

Certain forms exclude property otherwise insured, some covering only the excess value over the other insurance on such property.

A check of the details of the claim will detect any property not covered.

Loss or Expense Not Covered. Check should be made of each detail of loss or expense claimed to determine whether it is covered. As usually encountered, loss or expense not covered is due to

1. Perils not insured against under the policy
2. Excluded perils
3. Consequential loss
4. Expense incurred for the insured's benefit, but not for the prevention of loss under the policy
5. Previous loss

A common example of the first is the claim under a sprinkler-leakage cover for damage done by water from an overflowing sink or toilet, or water from a broken service pipe that is no part of the sprinkler system. Another example is collapse damage preceding a fire.

The perils excluded by a policy are listed in the policy. Theft, for example, is excluded from the protection of the New York Standard Fire Policy. In occasional claims under such policies articles stolen during the progress of a fire are listed. Loss caused by neglect of the insured to use all reasonable means to save and preserve the property at and after a loss or when the property is endangered by fire in neighboring premises is also excluded. Since it is usually difficult to determine what should have been done during the excitement attending a fire, there are few claims in which it is possible to demonstrate neglect on the part of the insured at the time of the fire. After a fire, apathy, shock, or a desire to increase his collection of insurance money may cause the insured to refrain from using all reasonable means to save and preserve his property, which will then suffer further damage. Here, again, it is difficult to demonstrate neglect. The adjuster can be more successful in preventing further damage than in excluding it once it has occurred.

A common example of consequential loss is the extra cost of replacing old open electric wiring with wiring in conduits required by municipal ordinance.

Expense incurred for the insured's benefit may be overtime paid to mechanics in order to hasten repairs, or the cost of a watchman employed to prevent theft or accidents after a fire.

Claims are sometimes made for old damage that had not been repaired when the loss occurred. The cost of repairing masonry that had been cracked by settling of a building before the occurrence of fire may be included in the claim for the fire loss. Sometimes, when a second fire occurs before the damage due to the first has been repaired, a second claim will be made for the earlier fire damage.

Claims are also occasionally made for loss due to decomposition, souring, rust, other deterioration, or breakage that occurred before the fire or other casualty.

Contribution, Coinsurance, Average, or Distribution. If the policies contain reduced-rate contribution, coinsurance, average, or prorata distribution clauses, the claim must be checked for the sound value of the property covered by each item, or the sound value at each location, according to the requirements of the clause. The computation of the amount for which the insurance is liable because of the clause must also be checked.

Basis of Value and Loss. If the insurance is subject to a coinsurance or average clause, it is important that value and loss be tested to determine whether both have been measured with the same yardstick. If value and loss are not on the same basis, the purpose of the clauses may be nullified.

In a building loss, for example, the claim may state the value of the building as the amount shown in the last tax assessment, while the loss will be stated at the cost of making repairs to roof, walls, floors, or openings. The tax assessment may value the building at only half what it would cost to build. The amount of the insurance may be 80 per cent of the assessed value, and the policies subject to the 80 per cent coinsurance clause. Fire, windstorm, or explosion may have destroyed half the building, and the remaining half may be practically as good as before the loss. If the assessment figure is used for value and the repair cost figure for loss, the policy will be called upon to pay a total loss, although only half of the property covered by it has been destroyed. The purpose of contribution, average, and coinsurance is to keep the percentage of

the insurance loss on a rough parity with the percentage of the property loss.

When machinery or fixtures are underinsured, the claim may state the value of each machine or fixture at the price for which it would sell in the secondhand market, and state the loss on it at the cost of reconditioning or repairing it. Unless value and loss are put on the same basis, there will be a disproportionately high insurance payment.

When value and loss are based on measurement, weight, or count, the adjuster should find out whether the same care and attention were given to measuring, weighing, or counting undamaged articles included in the value as were given to measuring, weighing, or counting those involved in the loss.

Arithmetical Correctness of Claim. The adjuster must test or exhaustively check for correctness all figures in a claim. When to test and when to check are matters of judgment. Whenever figures are accepted on the basis of a test, the adjuster should so state in his report to the insurer.

Comparison of Claim with Adjuster's Estimate. After any obvious errors in a claim have been found and corrected, the value and loss stated should be compared with whatever data the adjuster has assembled independently in his efforts to estimate the loss. All differences must be developed and investigated.

In a building loss, the claim, presented in the form of an estimate of cost to repair, may show that the estimator contemplates replacing the entire roof, whereas the adjuster may hold an estimate based on replacing one half and repairing the other half. The question of what should be done to the roof then becomes the subject of investigation. In an automobile loss, there may be a claim for a new axle, while the adjuster may feel that the damaged axle can be straightened and made as good as before. In a truck-cargo loss, the claim may show a charge for repacking all cartons of canned goods in the cargo, while the adjuster's survey may show that half of the cartons showed no signs of injury when he inspected them.

Is the Claim Bona Fide or Fraudulent? The great majority of claims are bona fide; a few are fraudulent. As investigation progresses, the adjuster's examination of the evidence offered by the insured and a comparison of it with evidence in hand or developed later will lead to the conclusion that the claim is bona fide, doubtful, or fraudulent. A fraudulent claim may be presented following a deliberately planned fire or explosion, or the

concealment or disposal of property. One, however, may also be made after an accidental loss by a policyholder who thinks he has an opportunity to collect a materially greater amount than his actual loss. A fraudulent claim may include property valued at much more than its actual worth, or may list, as lost or destroyed, property that has been hidden or disposed of or that never existed. In the first case, the remains of the property will be offered as evidence in support of the claim, in the second, fraudulent testimony, forged or altered invoices or inventories, or falsified books will often be presented. At times, property previously damaged, or damaged elsewhere, is surreptitiously brought into the premises and exhibited in support of claim. The investigation of a fraudulent claim calls for painstaking work on the part of the adjuster. When his suspicion is genuinely aroused, he should commence at once a check of all the evidence he can collect. The investigation should include a thorough examination of the scene of the loss, the remains of any property, any records covering it, the history of the insurance, and the history and condition of the insured. In many cases, legal assistance and examinations under oath are advisable.

Subrogation Possibilities. Investigation of a possible right of recovery due to the wrongful injury of the property by a third party should develop evidence showing whether something done by him, or something for which he was responsible, caused the loss or damage of the insured's property; also, whether the third party is financially able to pay the damages or carries insurance that will do so. Investigation of a situation in which a third party was in possession of the property and possibly liable for loss or damage to it because of law or contract should develop whether the loss or damage was due to negligence of the third party, whether by law or contract he is liable even if not negligent, whether he is financially able to pay the damages or carries insurance that will do so.

Fire responsible for a wrongful injury may originate because an electric pressing iron in a cleaner's shop, or in the repair department of a store, was left in circuit. If customer's articles are damaged, the owners of the shop or the store are liable. Investigation should cover the appearance of the premises, the condition of the iron, and the statements of owners or employees. Other fires result when oil trucks deliver gasoline to fuel-oil tanks, when waste oil is discharged into open street gutters, when painters are careless in burning off old paint with gasoline torches, when electric

circuits are overloaded, or from other causes. Prior to the coming of electric and diesel power, fires were often started by sparks from the smokestacks of coal- and wood-burning locomotives.

Explosions, collisions, falling aircraft, failing water piping, and other casualties cause damages under which rights of recovery arise.

In all such instances, the evidence bearing on cause of loss and possible negligence must be developed and made available for use in possible litigation. Written statements should be taken from witnesses. Physical evidence, such as burnt-out pressing irons, samples of gasoline delivered to oil tanks, samples of waste oil taken from street gutters, pieces of wire, fused switches, fuse blocks, sections of materials, or pieces of debris, should be collected. In a loss involving the liability of a contractor who was erecting the steelwork of a nearby building, the adjuster was able to get possession of the rivet that had missed the bucket of the worker who should have caught it. It fell in its red-hot state through the skylight of the insured's premises into a bin of ostrich plumes and set them on fire. The rivet was physical evidence corroborating the statements of the clerks on duty at the time of the fire.

In many instances photographs are helpful. In collision cases, diagrams may be in order.

There are occasional instances when the insured, because of business relations with the wrongdoer, does not wish to sue him or have the insurer do so. In such instances, the adjuster should inform the insurer of the insured's feelings.

Investigation of the financial responsibility of a wrongdoer should, sometimes, be made by inquiry of persons who know him; in other cases, by having the insurer get a mercantile or credit report.

Situations in which a third party may be liable by law or contract are illustrated by losses under owners' policies when personal property is in possession of a common carrier or other bailee. In such losses, the bill of lading, or the warehouse receipt, storage receipt, or other contract of bailment should be examined for conditions as to liability, and these should be checked against the evidence of the cause of loss. In some losses there will be no documentary evidence of the contract of bailment, which must be established by the statements of the parties checked against the customs in the trade. Most bailees carry insurance to protect them on goods of others. The adjuster handling a loss for an owner should try to

find out what insurance for the benefit of others is carried by the bailee.

Producer's Knowledge and Attitude. In some losses it is advisable to learn, if possible, what the producer knew about the insured and the property before loss, what he knows about the loss, and what is his attitude toward positions taken by the adjuster as to coverage or amount of loss, possibly as to the bona fides of the claim. Producers tend to be zealous in the interests of a client, and even the best of them will try to put a favorable construction on evidence the adjuster brings forward to show that the claim is excessive or out of order. Whenever investigation requires the adjuster to report adversely on a claim, he should, before doing so, try to get an expression from the producer as to what support the producer intends to give the insured in efforts to collect.

Reporting. Reports are sometimes made orally, but generally are written. An oral report may be no more formal than a telephone call by the adjuster to the field man, the loss official, or the underwriter, stating that the adjuster has inspected the scene of the loss and estimates the amount as so many dollars. On the other hand, a serious situation involving a large loss may be reported orally to the representatives of the insurers in a formal meeting, with a chairman to put motions and a secretary to record the proceedings and write up minutes. A written report may be nothing more than the adjuster's signature, approving a proof of loss for a small amount, or a form letter stating the amount of the adjustment and saying that nothing worth commenting upon was found. It may, however, be lengthy and highly detailed.

Reports are of three general kinds: (1) *preliminary* and *interim* reports made for the purpose of keeping the insurer up to date on what is happening, (2) *interim* reports on unadjusted losses in which the adjuster presents situations that raise questions of expediency or liability and asks for the insurer's instructions, and (3) *closing* or *final* reports on losses which have been adjusted.

On any loss, the report should be factual and concise. On a loss that is large or complicated or that has developed unusual or doubtful situations, the report should be comprehensive. A report should put the person who reads it in possession of information and comment that will justify him in taking some definite action. In preparing a report, the adjuster should consider the circumstances attending the loss or the claim and present only those that are pertinent to an understanding of what has happened

and what should be done. The material of a report should be arranged in orderly fashion and should be presented so as to emphasize what is important.

Reports should be made in the language ordinarily used by underwriters and loss men. If accurate description of unusual properties, processes, or other subjects requires the use of uncommon names, terms, or expressions, it is well to explain their meaning. Any conclusion or opinion stated should be supported by the reason for it.

In many instances, reports should be accompanied by exhibits, estimates, statements, diagrams, sketches, or photographs. If so, these should be identified by name, letter, or number.

The great majority of written reports are made by the adjuster himself. In some offices, however, a competent secretary writes reports from memoranda and figures in the adjuster's file. In others, those handled by the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, for example, a supervisor reviews the adjuster's report on any loss exceeding \$1,000, compares it with other information in possession of the office, and writes the report that goes to the insurer.

In emergencies, as when preliminary reports are expected by the underwriters within 24 hours, the newspaper-reporting method, combining the work of leg man and rewrite desk, can be followed to advantage. The adjuster, after going over the property and picking up all available information, telephones his report to headquarters, where it is written up and mailed or otherwise delivered before he can return.

While the primary purpose of a report made on an adjusted loss is to present information and the adjuster's opinion about the loss and its adjustment, most underwriters urge observant and thoughtful adjusters to comment in their reports on circumstances that can be remembered by the underwriters as examples and used to their advantage in future underwriting operations.

One very able underwriter has spoken to adjusters as follows:

. . . give the underwriters the benefit of your on-the-ground observations. Is the insured one you recommend for continued coverage? Did the claimant suffer a consequential loss of any nature that was uninsured? Loss reports are our most lucrative source of production leads and permit solicitation at the most opportune time—directly following a loss, small as it may have been. What can you tell us about the cause and spread of the fire that will help us in establishing our retentions on

similar risks in the same class? Did fire walls and fire doors hold; would adequate first-aid equipment have kept the fire under control; was the building suited to the occupancy?

I know you cannot write a comprehensive dissertation in each and every case, but can't you take a paragraph to report a truly significant feature of underwriting interest? We get them from the rating bureaus and adjusters in the large losses, but we are sorely in need of such reports in the more modest risks as well. The latter make up the bulk of our risks and claims, and we want more information from the one man best qualified to give it to us—the adjuster.¹

The report made by an adjuster to the insurer that has employed him is a privileged communication, but, like all other communications, may by accident or misjudgment fall into the hands of some third party. It is, therefore, advisable to refrain from making statements or using language in a report that might be used to charge the adjuster with libel or slander or to embarrass him in his business or social contacts.

It is unwise, in a written report, to charge a person with arson or any other willful destruction or damage to property, or with hiding it or disposing of it and reporting it as stolen. When commenting on doubtful or suspicious circumstances, it is well to use such expressions as "I have been informed," "I understand," or "It is reported." In reporting on arrests, it is better to say that "he was arrested by the police on a charge of theft" than that "the police arrested the thief."

A detailed statement of the condition of undesirable property will not arouse resentment while a general derogatory statement may do so. The factual statement that there are water stains on ceilings indicating that the roof has leaked, that the paint has peeled or faded, that the right end of the front porch has sunk where the supports have decayed, and that the glass has been broken out of five windows, will not anger the owner of the building, but if the adjuster reported it as a run-down, dilapidated piece of property, the owner and producer might take offense at the statement should the report come into their possession.

Criticism of producers should be avoided. If they have been at fault, an exact statement of what they have done will speak for itself.

Preliminary and Interim Reports. A preliminary report is ordinarily no more formal than a statement of insurance involved, cause and extent of loss,

¹From address of Richard G. Osgood before the National Association of Independent Insurance Adjusters, *The Independent Adjuster*, July, 1946.

and estimated amount of loss. An interim report will ordinarily cover what has happened and the prospects for completing the adjustment.

It is good practice to make a preliminary report on any loss, regardless of size, that has not been closed within 10 days from the date the adjuster receives the assignment. The report should be brief or comprehensive according to the importance of the situation and should include, at least, an estimate of the amount of loss.

There is a growing tendency on the part of agents to overlook sending written loss notices to companies or fieldmen after reporting losses to an adjuster. Early preliminary reports are, therefore, welcomed by the companies.

In New York City, losses are reported by brokers without estimates of amounts. Consequently, the adjuster in that city is expected to report promptly his estimate of the amount of each loss which is assigned to him.

Insurers are required by law to set up a reserve against every reported loss. In order to do so, they need an estimate of the amount.

Interim reports should advise the insurer of any change of circumstances coming to the adjuster's attention, particularly any change in the estimated amount of loss or any special action taken since the date of the previous report. In preparing annual or semiannual statements, companies review their loss files and revise the estimate of the amount they must carry as a reserve for losses in process of adjustment. It is expected that adjusters will make interim reports, giving revised estimates, on all important losses that cannot be adjusted and covered by final reports before statement-making time.

Reports Asking for Advice or Instructions. Insurers rarely delegate to adjusters, other than their own salaried employees, authority to decide questions of liability. Consequently, such questions must generally be submitted to them for their decision. Questions of expediency also arise from time to time. In either case, the adjuster should make a report on the situation and ask for instructions. In submitting such questions the report should set forth all circumstances that the insurer should have in mind in order to make a wise decision.

Closing or Final Reports. On ordinary losses, closing or final reports should summarize the result of the adjuster's investigation and agreement upon amount and state his recommendation for payment. On important losses,

reports should discuss the insured and his history, describe the property, state when, where, and how loss occurred, what part of the property was involved, how the peril affected it, what claim was made, and how it was adjusted. If any question of liability arose and was submitted to the insurer, it is well to incorporate in the report a statement of the insurer's instructions as to its treatment. Any pertinent recommendations or comments should be included.

The Present Trend. The great increase in the number of losses due to liberalizations and extensions of coverage, and to an increased claim consciousness on the part of the public, has resulted in requests from many insurers that adjusters shorten their reports to the minimum that will present the truth, the whole truth, and nothing but the truth about the loss. Loss officers and officials are busy persons and should not be burdened with a page of reading matter that can be condensed into a paragraph, or a paragraph that can be condensed into a sentence.

Guides to Report Writing. The General Adjustment Bureau has prepared for its adjusters a "Sheet Number One" for fire losses, and similar sheets for inland-marine and other kinds of losses. They are excellent guides to follow in the writing of reports.¹

The following sections, drawn from stock-company, mutual, and individual sources, present suggestions for the effective preparation of reports.

Fire-loss Reports. Reports on fire losses should begin with a caption and, except those on trivial losses or ordinary losses presenting no unusual circumstances, are best written in sections, each beginning with an all-capital side heading. Subsections should begin with a capitalized lower-case side heading.

When a number of insurers are interested under concurrent policies on the same loss, the report to each is the same. Ordinarily, in such instances, the report is addressed to "Insurers Interested" and written with sufficient carbon copies to provide one report for each insurer.

Fire-loss reports to stock companies contributing information to the Actuarial Bureau of the National Board of Fire Underwriters, when the amount of loss is \$50 or more, are supplemented by a Confidential Adjuster's Loss Report. Fire-loss reports to mutuals contributing information to the Loss Research Division of the Federation of Mutual Fire Insurance Companies are supplemented by a similar report bearing the same title.

¹ See Appendix B.

Supplies of blanks for these confidential reports are furnished to adjusters on request. In a few states, these reports are required on all fire losses, no matter how small.¹

Other Reports to Fire-insurance Companies. Reports on windstorm, explosion, aircraft and vehicle, smoke, sprinkler-leakage, or other losses should be written in the same form as fire-loss reports.

In November, 1951, sprinkler-leakage losses were the only ones of those mentioned on which a special report blank was required. Insurers will furnish them on request.

Inland-marine and Casualty Reports. The requirements of reporting on losses under inland-marine policies and casualty policies covering property are basically the same as under fire policies. Reports should show when, where, and how loss occurred, the property involved, the insured's interest, the amount of loss, and how the policy conditions applied. Great emphasis is placed on representations and warranties by inland-marine and casualty loss men, and there is a larger percentage of losses in which a third party is liable. These details, when pertinent, must be covered.

Caption. The caption of a report should identify the loss. If made under single policies written through a local agency, it should show:

Insured—Name as it appears in the policy

Location—Number, street, or other description, city, town, village, occasionally county, and state

Date of loss—Month, day, year

Policy number, agent issuing, location of agency

On brokerage policies written by company offices, the policy number is, ordinarily, sufficient.

When policies issued by several insurers are involved and a single report addressed to the "Insurers Interested" is prepared, the policy number of each insurer should be inserted in the caption, unless a list of policies, giving numbers, is incorporated in the report.

Section Headings. The section headings under which material can be presented are: SUMMARY; INSURED; INSURANCE; RISK, building or other property covered; INTEREST, TITLE, ENCUMBRANCE, POSSESSION (one or more according to what is to be reported); ORIGIN—OR—FIRE, WIND-STORM, EXPLOSION, or other peril that caused loss; LOSS OR DAMAGE; LIABILITY; SURVEY OR INSPECTION; PROTECTION FROM FURTHER DAMAGE;

¹Because requirements tend to change, no attempt is made to list the states referred to. The adjuster must familiarize himself with the requirements of his territory.

PREPARATION FOR ADJUSTMENT; CLAIM AND ADJUSTMENT; SALVAGE; SUBROGATION; PAYMENT; RECOMMENDATIONS; COMMENT.

Occasionally, a special circumstance will justify a heading not mentioned. Very few reports require more than six or seven sections. Material pertinent under one heading should not appear under another.

Suggestions of Loss Executives Association. In efforts to bring about uniformity in reporting, the Loss Executives Association has set up standards for (1) reports asking for instructions and (2) final reports. The headings prescribed will, except in rare instances, tend to make the adjuster present the material that he should, while the orders prescribed for presenting information will enable the reader to refer easily to the point or points in the report in which he is particularly interested. Concise reports, written according to the standards set up, are great timesavers for persons who must read them. The standards follow:

1. REPORTS ASKING FOR INSTRUCTIONS

Caption

QUESTION SUBMITTED:

INSURANCE:

<i>Policy No.</i>	<i>Amount</i>	<i>Company</i>	<i>Agent</i>
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INSURED:

RISK: [building or other property covered]

INTEREST, TITLE, and ENCUMBRANCES:

ORIGIN:

POLICY VIOLATION: [or other question affecting liability]

GENERAL REMARKS:

SUBROGATION:

SALVAGE:

2. FINAL REPORTS

Caption

ENCLOSURES:

INSURED:

RISK: [building or other property covered]

INTEREST, TITLE, and ENCUMBRANCES:

ORIGIN:

CLAIM, ADJUSTMENT, COMMENTS:

SUBROGATION:

SALVAGE:

RECOMMENDATION:

PAYMENT:

Summary. A summary is given only in a final report, as, until the loss is closed, no summary can be made. In the New York area, it generally is set up as the first section of the report.

<i>Item</i>	<i>Sound value</i>	<i>Loss</i>	<i>Insurance</i>	<i>Claim</i>
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Items are stated as building, contents, business interruption, rents, or other subject matter. If more than one item is involved, each should be detailed. If, under any item, the claim is less than the insurance and also less than the loss, there should be added a statement, substantially as follows:

The amount claimed is the limit of liability under the . . . % coinsurance (or other) clause.

Insured. In reports on ordinary losses, most insurers expect only short and simple statements relative to the insured. As examples:

1. The insured is employed as a bookkeeper in the local hardware store of Smith & Jones. He states that he has suffered no previous losses.
2. The insured is a nationally known producer of copper products. It has suffered a number of losses, none of which has been criticized.

In reports on losses of doubtful origin, or difficult of adjustment, or presenting unusual situations, any of the following items of information may be pertinent and should be covered.

1. If an individual
 - a. Approximate age, status, whether single, married, widow, or widower; if married, name of wife or husband
 - b. In dwelling losses, occupation, business address
 - c. In mercantile or manufacturing losses, home address
 - d. Racial extraction, citizen of what country, any former nationality
 - e. State and country of residence, and how long continuously a resident
 - f. Previous places of residence
2. If a group, partnership, association, or corporation
 - a. Names of the individuals making up the group, partners, officers, and important employees
 - b. State in which incorporated
 - c. Authorized and paid-in capital
3. On all classes of insured
 - a. Financial stability
 - b. In contents losses, owns or does not own premises occupied

- c. Present business, previous business, and where located
- d. Previous fires or other losses; if any, location, amount of insurance collected, names under which losses occurred
- e. Moved since fire, where
- f. Attitude in adjustment negotiations: fair-minded, cooperative, mercenary, difficult; support with reasons
- g. Recommendations as to continuing to insure the insured

Insurance. The insurance is frequently reported on in considerable detail in preliminary reports, particularly those that present situations in which the adjuster submits the facts and asks the insurer to advise him how to proceed. The insurance is only occasionally discussed in final reports.

Preliminary reports

1. List of policies by numbers; binders or other contracts of insurance, alphabetically by names of insurers, commencement and expiration dates, amounts of insurance, total amount; if policies are not all concurrent, group any two or more that are, and show group total
2. Name of agent issuing each contract and location of agency
3. Abstract of form or forms; subject matter covered, location if there is doubt or dispute as to location at which insurance covers; limitation clauses, loss-payable or mortgagee clauses, warranties, or other provisions that have any bearing on loss
4. Examination of policies, when and where made; if not examined, why; source of information

In final or closing reports, no list of insurance is necessary, because the proof of loss shows details and lists all policies in an apportionment.

Risk. In ordinary losses, brief descriptions are in order, for example:

1. Frame, shingle-roof dwelling
2. Frame dwelling, garage attached
3. Ordinary brick mercantile building

In unusual losses, any of the following may be pertinent to an understanding of the loss, a check of an application or representations, and a consideration by the underwriter of the desirability of the risk for future insurance, and of the amount to be carried on or in it, if it is acceptable.

1. Construction

- a. Fireproof, brick, iron-clad, frame, cement-block, or other accepted description

- b.* Number of stories
 - c.* Size and age, actual or estimated
 - d.* Defects and possibility of their correction
 - e.* Physical condition: sound, or in need of repairs, or deteriorated, or obsolescent
 - f.* Contribution to cause or extent of loss
- 2. Occupancy
 - a.* Mercantile, manufacturing, office, warehouse, hotel, dwelling, school, or other
 - b.* Insured occupies what part and for what purpose
 - c.* Other occupancies and names of occupants if pertinent, particularly when loss originated in or because of another occupancy
 - d.* Contribution to origin or spread of loss
 - e.* Contribution to amount of the insured's loss
- 3. Protection
 - a.* Protected against fire, theft, flood, or other peril insured against, or unprotected
 - b.* Fire: within or beyond protection of public fire station; within or beyond 500 feet of public hydrant; private protection; sprinklered
 - c.* Theft: under police protection; private protection, special devices, alarms
 - d.* Flood: dykes, window and door covers, pumps
- 4. Exposure
 - a.* Fire, explosion, flood, other perils
 - b.* Fire: building, lumber pile, forest, grass field, or other source; distance in feet from risk
 - c.* Explosion: gas holder, tanks, plants using explosives; slips, piers, or wharves where explosives are handled; distance in feet from risk
 - d.* Flood: body of water; distance in feet from risk; normal elevation; record of floods
- 5. Neighborhood fire record
 - a.* Good or bad
 - b.* Accepted reason
- 6. Market value of risk
 - a.* Replacement cost compared with price for which it might sell
 - b.* Probability of replacement if destroyed

7. Recommendation

- a. Continue insurance: after correction of any unsafe conditions, after inspection
- b. Discontinue insurance; reason

Interest, Title, Possession, Encumbrance. In the majority of losses, the adjuster can report,

Sole ownership, no encumbrance

In some losses, however, he must report on one or more of the following:

1. Insured's interest

- a. Nature and extent
- b. When and how acquired
- c. If by contract of purchase, date, execution date, principal sum, payments stipulated, default, proviso as to bearing of any loss or maintenance of insurance

2. Interests of others

- a. Names of others holding interests
- b. Nature and extent of the interest of each
- c. Insured, by stipulation in the insured's policy or separately
- d. Not insured

3. Title

- a. Name of title holder; if a woman, single, married, widowed, or divorced

4. Possession: real property

- a. Owner
- b. Tenant at will
- c. Lessee: terms of lease, duration, rental, fire clause, option to buy, insurance requirements; any independent insurance carried

5. Possession: personal property

- a. Owner
- b. Lessee: terms of lease, duration, rental, fire clause, option to buy, insurance requirements; any independent insurance carried
- c. Bailee: contract of bailment, written, oral, trade custom; charges; insurance carried by bailee on his liability, on the property

6. Encumbrance

- a. Name of person holding
- b. Nature, amount, date due; debt at date of loss; record of default; foreclosure threatened or begun

- c. Covered by loss-payable clause in insured's policies, mortgagee clause in insured's policies, independent insurance
- d. Not covered; requirements of encumbrance as to insurance

Origin or Occurrence of Loss. The time, place, and cause of loss are the essential points to be covered. In ordinary losses, little needs to be said. In unusual losses, there may be a considerable story to tell. Any special investigation should be concisely reported. The general requirements are:

1. Time
 - a. Date, hour, and minute, A.M. or P.M.
 - b. If indefinite, the best approximation of the time
2. Place
 - a. On premises described in policy covering at specific location
 - b. On other premises or elsewhere under extension of coverage or floating insurance
3. Cause
 - a. Definite or uncertain
 - b. If uncertain, the insured's theory, the adjuster's theory
4. Discovery
 - a. When and by whom
5. Alarm or report
 - a. When given or made, and by whom

Other points to be covered in the various kinds of losses include:

1. Fire
 - a. In what part of whose premises did it originate
 - b. How was it fought, by public or private protection; apparatus used; hose streams, barrels, and buckets
 - c. If property was sprinklered, number of heads that opened and their location
 - d. If fire was spread due to combustible materials, openings in floors or walls, concealed spaces
 - e. If fire was confined, features of construction, occupancy, or protection that confined it
 - f. Limits of burning, smoking, and wetting
 - g. If fire originated in another building or from any external exposure, the distance

- h.* Persons interviewed and their statements: fire chief, police, fire marshal, watchman; results of check of clock records
 - i.* Results of examination of debris
 - j.* National Board, American Mutual Alliance, or other agencies acting
- 2. Lightning
 - a.* Was building equipped with lightning rods?
- 3. Sprinkler leakage
 - a.* From what pipe, connection, valve, tank, or other part of sprinkler system did water escape?
- 4. Theft
 - a.* Who last saw missing article?
 - b.* Where was it?
 - c.* Have police been notified?
- 5. In all kinds of losses
 - a.* Circumstances indicating that a third party may be responsible for any part of loss

Extent of Loss. The condition of the property immediately after the loss should be described so that underwriter or loss man will be informed how and to what extent the property was affected, as follows:

- 1. Buildings
 - a.* Total losses: consumed, collapsed, blown to pieces, washed away
 - b.* Partial losses: character and degree of damages; sections destroyed, scorched, smoked, wet; debris; weather damage
- 2. Personal property
 - a.* Total losses: consumed, exploded, stolen, escaped, melted, buried, or contaminated beyond recovery
 - b.* Partial losses: articles or lots involved, their location and arrangement; character and degree of damage, loss, or destruction: scorched, smoked, wet, buried under debris, mingled, stained, contaminated, damaged by weather

Circumstances Affecting Liability. The circumstance creating any question of liability should be presented, together with the insured's statement and a summary of the evidence in hand. The position or attitude of any agent should be given.

1. Statement

- a. The question raised: forfeiture, coverage
- b. Facts
- c. Evidence in hand
- d. Insured's statement or explanation
- e. Agent's knowledge and attitude

Survey or Inspection. In many reports it is unnecessary to discuss survey or inspection. In reports on unusual losses a full account of surveys or inspections is advisable.

Date:

Place:

By Whom:

Others Present:

Property Surveyed:

Conditions Noted:

Protection from Further Damage. Steps taken to prevent further damage should be detailed.

1. Buildings

- a. Temporary or permanent repairs to roofs or openings
- b. Emergency shoring
- c. Evacuating water
- d. Draining plumbing
- e. Restoring heat

2. Personal property

- a. Assembling scattered articles
- b. Separating damaged and undamaged
- c. Drying, wiping, greasing
- d. Removing for better protection
- e. Putting into work or reconditioning process

Preparation for Adjustment. Preparation for adjustment is only occasionally reported on.

1. Examination of property

- a. By adjuster
- b. By expert

2. Estimates or inventories
 - a. By adjuster
 - b. By expert
 - c. Jointly with insured's representatives
3. Examination of records
 - a. By adjuster
 - b. By expert
4. Photographs
5. Diagrams
6. Chemical tests
7. Impressions
8. Rubbings

Claim and Adjustment. A detailed account of how the claim was presented and what was done to bring about an adjustment is in order when reporting on a large loss or one requiring more than ordinary time, effort, or expense to adjust.

Except in New York City, where the Committee on Losses and Adjustments and many of the independent offices do not attach statements of loss to proofs, the section of a report covering claim and adjustment should be written so that it will follow the order of the statement and can be checked against it.

1. Claim
 - a. Amount; if more than one item of insurance, amount under each item
 - b. Evidence offered in support: estimate, inventory, statement, original records, repair bills; name of any estimator, inventory maker, accountant, or repairer
2. Adjuster's figures
 - a. Amount
 - b. By whom made up
3. Joint figures
 - a. If no formal claim was made, but figures were made up jointly, so state
4. Experts
 - a. Reason for use

5. Appraisal
 - a. Why necessary
6. Expense
 - a. If abnormal, explain
7. Result
 - a. Satisfactory
 - b. Unsatisfactory

Subrogation. A section on subrogation is in order only when circumstances indicate that the insured has a right to recover his loss from a third party.

1. Circumstances creating right of recovery
 - a. Cause of loss
 - b. Negligent act or omission
 - c. Person or party at fault
2. If right has been waived
 - a. Details of any release or other agreement
3. Investigation
 - a. Evidence gathered: statements of witnesses, diagrams, photographs, physical evidence
 - b. Financial responsibility of wrongdoer
 - c. Insurance carried by wrongdoer that may be available
4. Attorney recommended
 - a. Name
 - b. His opinion if consulted
 - c. Fee basis
5. Subrogation or loan receipt
 - a. Taken by adjuster
 - b. To be sent with draft
 - c. Attorney will draft special form
6. Uninsured interest
 - a. Name of attorney who will represent insured
 - b. Basis for apportioning any recovery if one has been agreed upon

Salvage. If salvage was taken over or sold, details should be reported.

1. Reason for selling or taking
2. Property
 - a. Description, quantity, sound value

Application of Insurance, Contribution, Apportionment

A policy may stipulate (1) the extent of the *application* of the insurance, (2) the *contribution* to be made by the insurer in case of loss, and (3) the *proportion* of the loss for which the insurer shall be liable if there is other insurance.

Application of Insurance. A policy will apply in full to any loss that does not exceed the amount of the policy, unless its terms state otherwise. Some policies limit the extent to which the insurance will apply by describing the subject matter as the loss in excess of a stated amount or in excess of the amount collectible under other insurance. Others accomplish the same result by describing the property and adding clauses limiting the extent of the application of the insurance in case of loss. All such policies are *excess policies*. The clauses referred to are *excess clauses*.

In still other policies, *deductible clauses* provide for the deduction of a stipulated amount from any loss.

Some policies contain *franchise clauses* providing that there shall be no liability unless loss exceeds a stipulated amount or a stipulated percentage of the value involved.

Exclusion clauses are embodied in some policies, excluding from their coverage property specifically described, foundations, for example, or property otherwise insured.

Policies sometimes limit liability on named articles, or at specified locations, or for any one loss.

Contribution by Insurer. The contribution, that is, the payment to be made by the insurer in case of loss, may be affected by a variety of limitation clauses, such as the *three-fourths-value clause*, the *average clause*,

known also as the *contribution clause*, the *coinsurance clause*, or the *prorata-distribution clause*. Under a three-fourths-value clause, the insurer pays the full amount of any loss that does not exceed three-fourths of the value of the property covered by the insurance; under the other clauses, the full amount, if enough insurance is carried, but only part, if the insurance is insufficient.

Proportion. When two or more policies insure the same interest against the same peril and cover the same property, the insurer writing each is liable for a proportion of any loss.

Sum for Which Insurer Is Liable. When the value of the property and the loss on it have been determined, the sum for which any insurer involved is liable is fixed by the terms of its contract, unless they are ambiguous or in conflict with the terms of any other contracts that also cover the loss.

If only one policy is involved, the adjuster must compute the sum for which the insurer is liable according to such limitations of liability as its terms provide. In making such a computation, he is ascertaining what the New York Standard Policy describes as "the contribution to be made by this Company in case of loss."

If more than one policy is involved and each is liable for part of the loss, the adjuster must compute the amount for which each is liable. When he does, he is said to make an *apportionment*.

When the terms of policies are not ambiguous or in conflict, the problems of contribution and apportionment are simple. In such instances, the adjuster is expected to apply the terms of the policies properly and make arithmetically correct computations of the sum for which any insurer is liable. But when the terms are ambiguous or conflicting, the problems they present should be submitted to the interested insurers, unless methods of solution have been established by law, custom of the business, or special agreements among insurers, such as are registered in the National Board Rules for Non-concurrent Apportionments,¹ or in Guiding Principles.²

• **Excess Clauses.** Excess clauses provide that the insurance shall not attach until the loss to the property exceeds a stated amount, or exceeds the amount collectible from other insurance covering the same property.

¹ See pp. 212-214.

² See p. 98, also p. 226.

The following excess clause taken from a fire policy insuring a railroad and covering piers is illustrative:

This insurance, being excess insurance only, shall not attach until loss has been sustained by the insured in excess of \$200,000 on the property described herein by any one fire, and shall then cover only for the excess of such sum, not exceeding, however, \$100,000.

The computation under the provision would be:

Loss as ascertained	\$265,872.50
Excess provision	<u>200,000.00</u>
Excess loss covered by policy	\$ 65,872.50

Excess clauses are found in most inland-marine policies and in all standard general-cover or reporting forms. Two commonly used inland-marine clauses follow:

(1) It is expressly agreed that this insurance shall not cover to the extent of any other insurance whether prior or subsequent hereto in date, and by whomsoever effected, directly or indirectly covering the same property, and this company shall be liable for loss or damage only for the excess value beyond the amount of such other insurance.

The computation under this clause would be:

Value of property lost	\$5,000
Amount of specific insurance covering at location	<u>2,500</u>
Excess loss covered by policy	\$2,500

(2) It is understood and agreed that this insurance shall be considered as excess insurance where any other insurance exists in the name of the Insured or others on any property hereby insured, and this insurance shall not apply or contribute to the payment of any loss until the amount due from all such other insurance shall have been exhausted; it being understood and agreed that under this policy the Insured is to be reimbursed to the extent of the difference between the amount due from such other insurance and the amount of actual loss sustained by the Insured after applying any and all contribution, coinsurance, average, or distribution clauses contained in such other policies of insurance, not exceeding, however, the limit mentioned in this policy, nor the proportion of the loss arrived at by applying the coinsurance clause in this policy.

This clause is explicit. The computation under it would be:

<i>Value</i>	<i>Loss</i>	<i>Specific insurance</i>	<i>Excess insurance</i>
\$100,000	\$20,000	\$50,000(80 % coinsurance)	\$50,000
Specific insurance pays $\frac{\$50,000}{80\% \text{ of } \$100,000} \times \$20,000$, or			\$12,500
Excess insurance pays			<u>7,500</u>
			\$20,000

The excess clause in the reporting forms of policies ordinarily called *general-cover contracts* is combined with a contributing-insurance and a specific-insurance clause. They read:

• **Contributing Insurance Clause.** Permission granted for other insurance written upon the same plan, terms, conditions and provisions as those contained in the form attached to this policy, i.e., insurance written upon this premium adjustment coverage form; this insurance shall contribute, in accordance with the printed conditions of this policy, against any hazard insured by this policy or its riders only with other insurance as defined above.

• **Specific Insurance Clause.** Insurance other than described in the Contributing Insurance Clause shall be known as specific insurance, and in the computation of the final premium it shall not be permissible to deduct or credit such specific insurance against the values shown in the monthly reports, except that specific insurance covering the identical property as is insured by this policy, shall be permitted and credit given for same in the final adjustment of the premium only.

“A” When necessary to protect values in excess of the limits of liability of this policy, or

“B” When disclosed by written endorsement hereon showing location, expiration and amount.

Excess Clause. This policy does not attach to or become insurance against any hazard upon property herein described, which at the time of any loss is insured as defined by the Specific Insurance Clause, until the liability of such specific insurance has been exhausted, and then shall cover only such loss or damage as may exceed the amount due from such specific insurance (whether valid or not and whether collectible or not) after application of any contribution, co-insurance, average or distribution or other clauses contained in policies of such specific insurance affecting the amount collectible thereunder, not, however, exceeding the limits as set forth herein.

The excess clause in the reporting forms operates in the same manner

as the inland-marine excess clause presented in the immediately preceding example. Computations in three illustrative situations follow:

1. Value	Loss	Specific insurance	Reporting form
\$75,000	\$25,000	\$25,000 (No coinsurance)	\$50,000

Specific insurance pays \$25,000

2. Value	Loss	Specific insurance	Reporting form
\$75,000	\$25,000	\$25,000 (80% coinsurance)	\$50,000

Specific insurance pays $\frac{\$25,000}{80\% \text{ of } \$75,000} \times \$25,000$, or \$10,416.67

Reporting-form insurance pays excess 14,583.33

\$25,000.00

3. Value	Loss	Specific insurance	Reporting form
\$75,000	\$25,000	\$25,000 (100% coinsurance)	\$50,000

Specific insurance pays $\frac{\$25,000}{100\% \text{ of } \$75,000} \times \$25,000$, or \$8,333.33

Reporting-form insurance pays excess 16,666.67

\$25,000.00

Situation 1 apparently imposes a hardship on the specific insurance. It does not, however, require it to pay more than it would pay if it were the only insurance.

• **Deductible Clauses.** Deductible clauses stipulate that a specified sum or percentage shall be deducted (1) from the amount of loss to the property or (2) from the amount for which the policy would otherwise be liable.

The following clause is used in the *World Wide Personal Effects Floater Policy*.

Each claim or damage shall be adjusted separately and from the amount of each loss, when determined, the sum of \$25.00 shall be deducted.

The computation under the clause would be:

Loss of wearing apparel as shown in detail	
on inventory filed herewith	\$238 60
Less amount deductible	25.00
Liability under policy	<u>\$213.60</u>

There is a slight ambiguity in the clause. If the amount of the policy is \$1,000 and the loss of wearing apparel or other property is \$1,200, it

is not clear whether the deductible of \$25 should be applied to the \$1,200, and the insured paid the full amount of the policy (\$1,000), or to the \$1,000, which would result in a payment of \$975. In the interests of public relations, the clause should be clarified.

The deductible clause in the *Bridge Builders Risk Form* reads:

On each claim this Insurance Company shall be liable only for its due proportion of the loss or damage as limited by the terms and conditions of this policy, after deducting 1% of the total amount at risk at time of loss from the total amount of said loss or damage; however, in the event of total loss no such deduction shall be made. In making such deduction each accident shall be deemed a separate claim. The minimum amount to be deducted shall in no event be less than \$5,000.

Two types of computation under this clause might properly be made:

1. Amount at risk at date of loss	\$800,000
Loss, as determined	\$125,000
Less deductible, 1% of \$800,000	8,000
Insurer's liability	\$117,000
2. Amount at risk at date of loss	\$200,000
Loss, as determined	\$20,000
Less minimum deductible	5,000
Insurer's liability	\$15,000

The deductible clause in the *Builders Risk Flat Premium Endorsement* reads:

On each claim this Company shall be liable only for its due proportion of the loss or damage as limited by the terms and conditions of this policy after deducting \$500 from the amount of said loss or damage. Such deduction shall be made after applying the Coinsurance Clause hereinbefore stipulated, provided, however, that in the event of a total loss, no such deduction shall be made. In making such deduction, each accident shall be deemed a separate claim.

A computation of liability under this clause would be:

Sound value	\$50,000
Insurance	\$30,000
Loss, as determined	\$10,000
Application of 80% coinsurance clause	
\$30,000	
80% of \$50,000 × \$10,000	\$7,500
Less deductible	500
Insurer's liability	\$7,000

• **Excess and Deductible Compared.** Deductible and excess clauses produce identical results in their operation. *Uniform Standard New England Form No. 682* uses the word “deductible” in its heading and “excess” in its body. It reads as follows:

LOSS DEDUCTIBLE CLAUSE

(For Use with Extended Coverage Endorsement No. 4)

In consideration of the reduced rate and/or form under which this policy is written, it is expressly stipulated and made a condition of this policy that in the event of loss to the property described under the (items) of this policy this Company shall not be liable under the Provisions Applicable Only to Windstorm and Hail for any such loss unless the amount of such loss or damage to the property described under said item shall exceed fifty (50) dollars, and then only for its proportion of such loss in excess of said fifty (50) dollars.

If two or more items are included hereunder, the foregoing conditions shall apply to each item separately.

• **Franchise Clause.** A *franchise clause* appearing in many marine-insurance policies reads:

Including leakage and/or loss of contents, howsoever caused, if amounting to three (3%) percent after deducting one (1%) percent, which said one (1%) percent shall be deducted in all cases for ordinary leakage and/or loss of contents, each shipping package separately insured.

There are no standard franchise clauses in fire and kindred policies. One might well be drafted to read as follows:

No loss shall be payable under this policy unless the loss to the property amounts to more than \$250, in which event, this clause shall not apply.

• **Exclusion Clauses.** The clauses excluding coverage on such things as foundations below the level of the basement or other lowest floor, or excluding yard stocks, motor vehicles, bituminous coal, or other property, need no discussion. The loss on such excluded property should not be included in the claim.

The essential language of the type of exclusion clause referring to other insurance is:

This policy does not cover property otherwise insured.

The purpose of this clause is to relieve the policy from applying to

property covered by other insurance. The clause is not ordinarily noted in the computation of loss but is referred to in the adjuster's letter reporting on the adjustment, usually by the statement that certain property in the premises was otherwise insured and that the loss on such property was borne wholly by the other insurance.

• **Limitation of Amount.** Policies that cover groups of property in which units are alike in kind but vary greatly in value often limit the amount of insurance that shall apply to any one unit, or the maximum amount for which the unit may be valued in making a claim. Policies covering live-stock may limit the amount collectible for loss of any one animal; policies covering an architect's plans, the amount for any one set of plans; policies covering photographic negatives, the amount for any one negative. Policies insuring merchants and manufacturers, and including in their coverage the personal property of employees, officers, or partners, often limit the amount covering the property of any one of such persons. Many floater policies and all general-cover or reporting-form policies limit the amount covered at any one location. Some large blanket policies limit the amount to be paid as the result of any one fire, explosion, windstorm, or other casualty.

Specific computations, showing how these limitations operate, seem unnecessary. Claims for livestock, architect's plans, or photographic negatives must necessarily be supported by inventories showing unit values. If any unit is entered in the inventory for more than the limit stated in the policy, the entry should be noted and the excess deducted from the total of the inventory. Claims for personal property of employees, officers, or partners are likewise supported by lists showing their names and the amount of loss sustained by each. These lists should be treated in the same way as the inventories just referred to.

The operation of a limit at a location or as the result of a single casualty should be self-evident.

• **Off-premises Extension.** Household furniture policies now generally contain the following clause:

• **Off-premises Clause.** It is a condition of this policy that insurance on household and personal property of every description (except rowboats, canoes, animals and pets, and except equipment of aircraft, of motor vehicles and of boats of all types), such as is usual or incidental to a dwelling, belonging to the insured, or to any member of the insured's family, shall cover up to 10% of its amount against

the peril insured against but not to exceed its pro rata part of 10 % of all concurrent insurance thereon or its pro rata part of \$1,000, whichever is less, on the above described property while elsewhere on the above described premises or while temporarily removed to any other location in the United States of America, Canada or Newfoundland; such amount shall apply as excess after any other insurance thereon insuring against peril causing damage has been exhausted.

This extension requires several illustrative computations.

1. \$10,000 on household furniture in Company X
Loss, 2 rugs on cleaner's premises, \$300
Liability of Company X..... \$300
2. \$10,000 on household furniture in Company X
Loss, articles in second story of garage on insured's premises, \$1,500
Liability of Company X..... \$1,000
3. \$10,000 on household furniture in Company X
Specific insurance on contents of summerhouse in another insurer, \$500
Loss, articles in summerhouse. \$750
Specific insurance liable for 500
Liability of Company X. \$250

Three-fourths-value Clause. The three-fourths-value clause reads:

It is understood and agreed to be a condition of this insurance that, in the event of loss or damage by fire to the property insured under this policy, this company shall not be liable for an amount greater than three-fourths of the actual cash value of each item of property insured by this policy (not exceeding the amount insured on each such item) at the time immediately preceding such loss or damage; and in the event of additional insurance—if any is permitted hereon—then this company shall be liable for its proportion only of three-fourths of such cash value of each item insured at the time of the fire not exceeding the amount insured on each such item.

The operation of the clause will reduce the insurer's payment if the property covered by the item is insured for more than three-fourths of its value, and the loss exceeds such three-fourths; otherwise it will not. Computations because of the clause should be substantially as follows:

EXAMPLE 1

Item 1, \$2,000 insurance	
Agreed sound value.....	\$2,500
Agreed loss	\$2,275
Less one-fourth for three-fourth-value clause	<u>625</u>
Insurer pays.....	\$1,875

EXAMPLE 2

Item 1, \$2,000 insurance	
Agreed sound value.	\$2,500
Agreed loss.	\$800
Insurer pays.	\$800
Operation of three-fourths-value clause does not reduce amount to be paid. Loss is less than three-fourths of value.	

Coinsurance, Contribution, and Average Clauses. The purpose of a coinsurance, contribution, or average clause is to limit the liability of an insurer to the amount for which it would be liable if an adequate amount of insurance were carried on the property.

An insurer writing a policy that does not contain one of these clauses may, in case of serious underinsurance, be called upon to pay the full amount of its insurance when only a small part of the property has been destroyed.

Two forms of coinsurance clauses are ordinarily used in the eastern half of the United States. They are:

(1) *S.E.U.A. Form 205 Co-insurance Clause (Percentage).*

It is part of the consideration of this policy and the basis on which the rate of premium is fixed that the assured shall at all times maintain insurance on each item of property insured by this policy of not less than per cent of the actual cash value thereof, and that, failing so to do, the assured shall be a coinsurer to the extent of such deficit, and, in that event, shall bear his, her or their proportion of any loss.

(2) *New Jersey Standard Percentage Co-insurance Clause.*

If at the time of the fire the whole amount of insurance on the property covered by this policy shall be less than per cent of the actual cash value thereof, this company shall, in case of loss or damage, be liable for only such portion of such loss or damage as the amount insured by this policy shall bear to the said per cent of the actual cash value of such property.

The operation of either of these clauses will reduce the insurer's payment when both the amount of the insurance and the amount of the loss are less than the stipulated percentage of the value of the property. The effect of the clause (using 80 per cent) would be as follows:

EXAMPLE 1

Item 1, \$5,000 insurance

Agreed sound value.....	\$7,500
Agreed loss.....	\$5,000

Insurance required by 80 per cent coinsur-

ance clause.	6,000	would pay	\$5,000.00
Insured a coinsurer	1,000	contributes.	833.33
Insurance carried.....	\$5,000	pays.....	\$4,166.67

EXAMPLE 2

Item 1, \$5,000 insurance

Agreed sound value.....	\$6,000
Agreed loss.....	\$4,000

80, per, cent of value.	\$4,800
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Insurance, \$5,000 pays.	\$4,000
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80 per cent coinsurance clause does not reduce amount to be paid. Insurance exceeds 80 per cent of value.

EXAMPLE 3

Item 1, \$5,000 insurance

Agreed sound value.....	\$7,500
Agreed loss.....	\$6,500

80 per cent of value.	\$6,000
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Insurance, \$5,000 pays	\$5,000
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80 per cent coinsurance clause does not reduce amount to be paid. Loss exceeds 80 per cent of value.

The *Reduced Rate Contribution Clause* is generally used in the Northeastern states:

In consideration of the reduced rate and (or) form under which this policy is written, it is expressly stipulated and made a condition of this contract that in the event of loss this company shall be liable for no greater proportion thereof than the amount hereby insured bears to . . . per cent (. . . %) of the actual cash value of the property described herein at the time when such loss shall happen, nor for more than the proportion which this policy bears to the total insurance thereon.

The best known average clause is the *New York Standard Average Clause*:

This company shall not be liable for a greater proportion of any loss or damage to the property described herein than the sum hereby insured bears to . . . per cent (. . . %) of the actual cash value of said property at the time such loss shall happen, nor for more than the proportion which this policy bears to the total insurance thereon.

Like the preceding clauses, either of these two clauses will reduce payment when both the amount of the insurance and the amount of the loss are less than the stipulated percentage of the value of the property. The effect of the clause (using 80 per cent) would be as follows:

EXAMPLE 1

Item 1, \$5,000 insurance	
Agreed sound value	.. \$7,500
Agreed loss. . . . .	. . . . . \$5,000
80 per cent of value. . . . .	. . . . . \$6,000
Under operation of 80 per cent contribution or average clause insurance pays 5,000/6,000 of \$5,000, or.	\$4,166.66

EXAMPLE 2

Item 1, \$5,000 insurance	
Agreed sound value	. . . . . \$6,000
Agreed loss.	\$4,500
80 per cent of value.	\$4,800
Insurance \$5,000 pays. . . . .	. . . . . \$4,500
Operation of 80 per cent contribution or average clause does not reduce amount to be paid. Insurance exceeds 80 per cent of value.	

EXAMPLE 3

Item 1, \$5,000 insurance	
Agreed sound value. . . . .	. . . . . \$7,500
Agreed loss. . . . .	. . . . . \$6,500
80 per cent of value. . . . .	. . . . . \$6,000
Insurance \$5,000 pays. . . . .	. . . . . \$5,000
Operation of 80 per cent contribution or average clause does not reduce amount to be paid. Loss exceeds 80 per cent of value.	

Because the purpose of coinsurance, contribution, and average clauses is the same, a contribution clause or an average clause is often erroneously referred to as a coinsurance clause. Such an erroneous reference has been imprinted on some business-interruption forms.

In the great majority of losses the operation of a coinsurance clause will produce the same payment as the operation of a contribution clause or average clause of the same percentage. In all losses involving only one policy or several concurrent policies, payment will be the same under the policy or policies no matter which clause is used. But in losses involving

policies that are not concurrent, the payment under any policy that contains a coinsurance clause, and that also covers more property than another, may be greater than would be the case if it contained an average or contribution clause. Because such instances are seldom encountered, many underwriters are unaware of the difference between the effects of the coinsurance clause and of the contribution or average clause in these cases.

The occasional difference results from the difference in the stipulation of the clauses. The coinsurance clause stipulates that, unless an amount of insurance not less than a stated percentage of the value of the property is in force under the policy or policies at the time of loss, the insured must bear part of it. The average clause stipulates that the loss under the policy shall not be of greater proportion than its amount bears to a stated percentage of the value of the property.

In some losses under nonconcurrent policies, the coinsurance clause in a policy covering more property than another will not limit the insurer's liability as intended. Consider the liability of an insurer under a blanket policy, containing a 100 per cent coinsurance clause and covering two buildings of equal value. The amount of the blanket policy is one-half of the value of both buildings. If there is no other insurance and if either building is destroyed, the blanket policy will pay a 50 per cent loss. But if there is also a specific policy on one building for 100 per cent of its value, and the other building, on which the blanket policy is the only insurance, is destroyed, the blanket policy, according to the holding of the courts, must pay, not a 50 per cent loss but a 100 per cent loss. This is not what the insurer intended when the policy was written. It is harsh treatment of the blanket policy, but it is in accordance with the language of the coinsurance clause.

The insurance maintained on the two buildings, to follow the language of the *S.E.U.A. Form 205 Co-insurance Clause*, or the whole amount of insurance on the property covered by the policy, to follow the language of the *New Jersey Standard Percentage Co-insurance Clause*, is the sum of the amounts of the blanket and specific policies. The requirements of either form of the clause have been fulfilled and, consequently, the blanket policy must pay the full loss.

The situation has been considered by at least one court of final jurisdiction. Its opinion includes the following:

The defendants appealing contend that the provision for coinsurance could be satisfied only by insurance covering the whole property the same as did their policies. The question presented is not free of difficulty. It is entirely different from a question of concurrent insurance. A provision for concurrent insurance is a privilege extended to the insured which, as usually framed, results in a forfeiture of the policy if the insured exceeds the privilege. A provision for coinsurance is an obligation imposed upon the insured to keep a specific amount or a percentage of additional insurance in force; and if he fails to do so he becomes a coinsurer to the extent of the omitted insurance. There was no requirement that the insurance be concurrent; that is, that it cover all of the property covered by the policies containing the coinsurance clause. The policies did provide that when the requirement of coinsurance was in a policy covering two or more items the requirement for coinsurance should be construed as applying separately to each item of the policy. The construction which we are required to adopt is one favorable to the plaintiff and one which will afford it indemnity rather than put it to a loss.

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In view of the rule of construction favorable to the insured, the uncertainty of the precise application of the language of the coinsurance clause, and the disfavor with which the law regards provisions for coinsurance the trial court properly held that the condition as to coinsurance was satisfied.¹

On the other hand, the contribution clause and the average clause never fail to limit the liability of a policy. They stipulate that the policy shall not be liable for a greater proportion of the loss than the amount of the policy bears to the stipulated percentage of the value of the property. It is, therefore, impossible for the existence of another policy to make a policy containing one of these clauses pay more than it would pay if it were the only insurance.

The situation was considered by the New York courts in cases brought by one Buse against three companies. The opinion in these cases tends to be misleading because the court refers to the policies as "full coinsurance" policies. Fortunately, however, the language of the opinion is that of the *New York Standard Average Clause*:

The contribution has been provided for by the coinsurance clause attached, which fixes the liability of the company for the proportion of loss or damage which

¹ *Northwestern Fuel Co. v. Boston Ins. Co.*, 131 Minn. 19, 154 N. W., 513, 46 Ins. L. J. 715 (1915), Joyce on Insurance, Vol. 4, p. 4184, sec. 2496a.

the face of the policy bears to 100 per cent of the actual cash value of the property.¹

The word coinsurance should read "average." Even our courts are under the impression that coinsurance and average are synonymous terms.

From here on, the term "average clause" will be used to include all forms of contribution clauses that have the effect of average clauses.

Examples will be set up according to the form in which most of the adjustment organizations present situations involving nonconcurrent policies. Thus, a situation in which two items of property are covered (1) by a specific policy on each and also (2) by a blanket policy covering both is stated and set up as follows.

The owner of a manufacturing plant holds four policies, or groups of policies. One covers his building for \$100,000; another, his equipment for \$150,000; the third, his stock for \$200,000; and the fourth; all real and personal property for \$500,000. The policies on building, equipment, and stock contain 80 per cent average clauses; the policy or policies covering all real and personal property, the 100 per cent average clause. He suffers a loss. The agreed figures are:

	<i>Value</i>	<i>Loss</i>
Buildings	\$250,000	\$10,000
Equipment	375,000	30,000
Stock	500,000	100,000

In reporting to the insurers on any question of apportionment or in summarizing an adjustment for the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, the adjuster would set up the situation as follows:

	<i>Value</i>	<i>Loss</i>	<i>Insurance</i>	
Buildings	\$ 250,000	\$ 10,000	\$100,000 80 %	} \$500,000 100 %
Equipment	375,000	30,000	150,000 80 %	
Stock	500,000	100,000	200,000 80 %	
	<u>\$1,125,000</u>	<u>\$140,000</u>	<u>\$450,000</u>	

The apportionment would be shown in another paragraph.

Consider the situation previously presented of the two buildings of equal value.²

¹ *Buse v. National Ben Franklin et al.*, 160 N.Y. Supp. 576, 48 Ins. L. J. 404 (1916); *affirmed*, 123 N.E. 858 (N.Y. Ct. of Appeals).

² See p. 205.

	<i>Value</i>	<i>Specific insurance</i>	<i>Blanket insurance</i>	<i>Loss</i>
Building A	\$50,000	Nil	\$50,000	\$50,000
Building B	50,000	\$50,000		Nil

1. If the blanket policy contains a 100 per cent coinsurance clause, the insurer writing it will pay \$50,000, because the insured has insurance amounting to 100 per cent of value.

2. If the blanket policy contains a 100 per cent average clause, the insurer writing it will pay

$$\frac{\$50,000}{100\% \text{ of } \$100,000} \times \$50,000, \text{ or } \$25,000$$

Rental-value Insurance. The rental-value forms used in New York Fire Insurance Exchange territory contain average clauses. Because the form that covers only occupied or rented portions carries a lower rate than the form that covers all portions, whether rented or vacant, there have been many instances in which property owners have covered the rental value of a building under two policies, one containing an occupied-or-rented-only form; the other, a rented-or-vacant form. In such instances, a loss in the vacant portions cannot be collected in full, unless there is a total loss in both occupied and vacant portions for a full year, the period of time stipulated in the average clause.

The following will illustrate this situation:

Insurance:

Policy A \$12,000—occupied-or-rented form

Policy B 3,000—rented-or-vacant form

\$15,000

	<i>Year's value</i>	<i>Loss</i>
Occupied or rented portions	\$12,000	Nil
Vacant portions	3,000	\$750
	<u>\$15,000</u>	

The insurer under policy B pays 3,000/15,000 of \$750, or \$150.

General-cover Contracts. An important clause in general-cover contracts provides for contribution in terms similar to those of the average clause. It varies from the average clause in that, instead of basing liability on the relation of amount of insurance in force to value at date of loss, it bases it

on the relation of the last reported value to the actual value at risk as of the date of the report. The clause reads:

Full Reporting Clause. Liability under this policy shall not in any case exceed that proportion of any loss hereunder (meaning the loss at the location involved after deducting the liability of specific insurance, if any), which the last reported value filed prior to the loss, less the amount of specific insurance reported, if any, at that location on the date for which report is made. Liability for loss hereunder, occurring at any location acquired since filing the last report (except as provided by the Value Reporting Clause) shall be apportioned in a like manner except that the proportion used shall be the relation that values reported at all locations less the amount of specific insurance, if any, bear to the actual values less the specific insurance, if any, at all locations on the date for which report is made.

EXAMPLE

Date of loss Nov. 13, 1947

<i>Sound value</i>	<i>Loss</i>	<i>Value reported</i> <i>Oct. 31, 1947</i>	<i>Actual value</i> <i>Oct. 31, 1947</i>
\$68,724.50	\$22,289.56	\$52,220.75	\$70,504.51

Insurer's liability:

$$\frac{\$52,220.75}{\$70,504.51} \times \$22,289.56 = \$16,509.23$$

Prorata-distribution or Distribution-average Clause. The prorata-distribution or distribution-average clause reads:

It is a condition of this contract that the amount insured hereunder shall attach in or on each building, shed and other structure and/or place in that proportion of the amount hereby insured that the value of the property covered by this policy in or on each said building, shed and other structure and/or place shall bear to the value of all the property described herein.

If several locations are involved, the sound value and loss at each should be ascertained, after which payments may be determined as in the following examples:

Insurance \$10,000	
Agreed sound value, all locations	\$12,000
Sound value at location of loss	\$5,000

EXAMPLE 1

Loss	\$5,000.00
Insurance attaching 5,000/12,000 of \$10,000	4,166.66
Payment to be made	4,166.66

EXAMPLE 2

Loss	\$2,500
Payment to be made	\$2,500

EXAMPLE 3

Loss	\$3,000
Payment to be made	\$3,000

100 per cent Average Clause and Prorata-distribution Clause Contrasted. While the 100 per cent average clause effects a prorata distribution of the insurance, the prorata-distribution clause does not require 100 per cent insurance to collect in full certain losses that may occur. As shown by Example 2, if the loss at one or more locations is less than the insurance attaching, the loss may be collected in full although the insurance is less than the aggregate value. Under the 100 per cent average clause no loss may be collected in full unless there is 100 per cent insurance.

Specific, Blanket, and Floating Insurance. *Specific Insurance.* The term *specific* as it is usually applied to insurance is, unfortunately, relative rather than absolute, there being no authoritative definition of specific insurance. A policy covering a single building, a single machine, or a single bale or lot of merchandise is certainly specific. But by common usage a policy that covers in a single item all of the machinery, or all of the stock in given premises, is spoken of as specific, in contrast to one that covers in a single item both machinery and stock. Insurance covering at one location is also considered specific in contrast to insurance covering at several, as is also insurance covering a single ownership, that of a bailor, for instance, in contrast to insurance containing the trust-and-commission clause and covering in the name of the bailee the property of several bailors. Under a specific policy containing a coinsurance, contribution, or average clause the sound value of the property covered must be determined separately if other insurance of broader coverage is also involved.

Blanket Insurance. When two or more items of property ordinarily insured separately are insured under a single item or when property at two or more locations is so insured, the insurance is termed *blanket*. As the word blanket indicates, the insurance covers the entire property, and if the policy does not contain an average or coinsurance clause, it may be called upon to cover wherever protection is needed. In adjusting a loss under blanket insurance subject to an average, a coinsurance, or a prorata-distribution clause the sound value of all property covered must be deter-

mined, even though the loss may be confined to a part of the property that is also covered by specific insurance.

Floating Insurance. Floating insurance covers the property described at any place within the boundaries specified. Floaters are sometimes described as *general* or *limited* floaters, according to the breadth or narrowness of the coverage, a general floater covering at any location within an area, and a limited floater being restricted to specific locations within the area. The terms "general" and "limited" are, of course, relative. In some floaters it is stipulated that liability in any one location is limited to a given amount, in others there is no such stipulation. The sound value under a floater includes all insured property within the geographic boundaries specified in the floater at the time of loss.

Apportionment. Apportionment is the act or the result of computing and assigning to each of two or more policies insuring the same property its proportion of the amount of the insurance loss. When the policies insure the same interest against the same peril and cover the same property under the same terms, each policy, in case of loss, is liable for its prorata share. The provision for prorata liability in the 1943 edition of the New York Standard Policy reads:

This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

When policies separately insure different interests in the same property, the principle of prorata liability does not govern. As an example, two persons who own each an individual half interest in a building may hold separate policies covering the two half interests, one for \$2,500, the other for \$500. A loss of \$500 occurs. In the absence of coinsurance or average clauses, the policy held by each half owner pays half of the loss, or \$250.

The principle of prorata liability does not govern when both ordinary and excess insurance are involved, but does govern when any of several concurrent policies is not collectible because of breach of warranty or other reason.

When several policies cover all of the property described in each and are subject to the same provisions and clauses affecting contribution and apportionment, the policies are said to be concurrent. In case of loss under concurrent policies, apportionment is a simple operation. When, however,

some of the policies cover more or less property than the others, but each covers some property covered by all others, or when the provisions and clauses affecting contribution and apportionment are not the same in all policies, the policies are said to be nonconcurrent. The terms *simple nonconcurrency*, or *single nonconcurrency*, and the term *compound nonconcurrency* are accurately descriptive but are fading out of use. A simple nonconcurrency exists when property covered by one item of specific insurance is, at the same time, covered by blanket insurance that also covers other property. A compound nonconcurrency exists when two or more items of property covered by specific insurance are covered by blanket insurance that also covers other property.

In case of loss under nonconcurrent policies, apportionment may be a highly complicated operation.

Because policies may be specific, blanket, or floating, according to their description of the property covered and of its location, property covered by a specific policy may also be covered by blanket or floating policies that cover other property as well. In such instances the policies are nonconcurrent as to coverage. And because of rate differentials or other reasons, policies covering the same property may be written, some with average or coinsurance clauses, some without, or all with such clauses but with different percentages stated in the clauses. In such instances, the policies are nonconcurrent as to clauses. In other instances, policies are nonconcurrent both as to coverage and as to clauses. In some losses under nonconcurrent policies, the terms of the policies will be such that an apportionment can be made that is legally sound and mathematically correct, but in many, the terms in each policy are in conflict with those in the others, and any apportionment must be to some extent arbitrary.

Prior to 1934, a number of rules for the solution of apportionment problems arising under nonconcurrent fire policies had been formulated by adjusters or laid down by the courts. There was, however, no country-wide acceptance of them, and as a result many acrimonious controversies arose over apportionments in which the insured was the suffering bystander while the insurers wrangled among themselves, each contending for the use of the rule under which its share of the loss would be the smallest. Thoughtful underwriters, loss men, and adjusters realized that these controversies were harmful to public relations.

National Board Rules. Rules, approved by the National Board of Fire Underwriters in 1934, although not binding on insurers, have since then

reduced controversies to a minimum. Minor changes in the rules, suggested by experience, were made in 1942. The rules are now so generally accepted as to warrant presentation here in full.¹ They are printed in pamphlet form by the Board, and copies may be had on request.

• NON-CONCURRENT APPORTIONMENTS

The National Board of Fire Underwriters, through its Committee on Adjustments, has approved the subjoined report of the Special Committee on Non-Concurrent Apportionments and the Executive Committee has adopted it, thus making the suggestions therein a recommendation to our membership and others.

With a view to eliminating the many misunderstandings and disputes arising from apportionments involving non-concurrent policies the National Board of Fire Underwriters in May, 1927, appointed a committee of five loss executives to select a standard rule or combination of rules for adoption by the entire National Board membership to serve as a basis of apportionment in all cases. After mature consideration that committee recommended for approval four well known rules, to be applied according to the conditions present in each particular case.

The four rules thus recommended were approved by the National Board and bulletined to its members in January, 1934; and in a splendid spirit of cooperation these rules were subsequently adopted by non-member and mutual companies, thus establishing them as standard practice throughout the fire insurance business.

At the time it was generally recognized that none of these rules was perfect. It was believed, however, that if adhered to consistently in all cases of apportionment involving non-concurrent policies the result over a period of time would offset any inequalities growing out of specific apportionments which were not wholly satisfactory to the particular companies interested.

Expectations in that respect have been fully justified by the consistent application of these rules over a period of approximately eight years. Controversies and disputes which previously arose with such frequency to annoy both insurance companies and the insuring public have been reduced to a far greater extent than was anticipated at the time these rules were introduced.

Nevertheless, the practical application of these standard rules has brought to light certain unsatisfactory features which it is now deemed advisable to eliminate. To that end, the directions for determining the appropriate rule to be used in any particular condition of non-concurrency have been revised as follows:

CLASS A

When No Coinsurance, Reduced Rate Contribution or Reduced Rate Average Clause Is Present in Any Policy Involved. The *Page Rule* shall be used

¹ "Non-concurrent Apportionments," 1942 ed., recommendations of the National Board of Fire Underwriters. New York.

when there is specific insurance on certain property and blanket insurance covering that property and also other property, and loss involves only property covered by the specific insurance.

The *Cromie Rule* shall be used when there is specific insurance on certain property and blanket insurance covering that property and also other property, and loss involves property covered by the specific insurance and also other property included in the cover of the blanket insurance.

The *Kinne Rule* shall be used for all other non-concurrences in this class.

CLASS B

When Any or All Policies Are Subject to Coinsurance, Reduced Rate Contribution or Reduced Rate Average Clauses. The *Limit of Liability Rule* shall be used for all types of non-concurrence in this class, except as provided in Note 2.

NOTE 1: For the purpose of apportionment under Class B, the Limit of Liability of each policy, or group of concurrent policies, shall be the amount which it would pay if there were no other insurance in force.

NOTE 2: When a coinsurance (not reduced rate contribution or average) clause is present in any or all policies, it shall be applied as if it were a reduced rate contribution or reduced rate average clause, using Class B apportionment. However, if by this procedure the insured collects less than he would collect under the terms of the coinsurance clause, the coinsurance clause shall be applied as such and the loss apportioned under appropriate Class A rule.

NOTE 3: National Board rules of apportionment shall not apply when two or more policies cover the same interest and identical property, even though certain policies contain a reduced rate contribution, average or coinsurance clause, while others do not.

STATEMENT AND APPLICATION OF THE FOUR RULES OF APPORTIONMENT RECOMMENDED TO THE NATIONAL BOARD

The Page Rule

The full amount of the blanket insurance contributes with the full amount of the specific insurance to pay the loss.

EXAMPLE

Blanket insurance covering stock and machinery	\$2,000
Specific insurance covering stock	1,000
Loss on stock only	750
Blanket insurance	\$2,000 pays \$500
Specific insurance	1,000 pays 250
Total insurance	\$3,000 pays \$750

The Cromie Rule

The blanket insurance first pays the loss on property which it alone covers, and thereafter its remainder contributes with the specific insurance on the property covered by both.

EXAMPLE

Blanket insurance covering stock and machinery	\$2,000
Specific insurance covering machinery.....	1,000
Total insurance.....	\$3,000
Loss on stock.....	\$1,000
Loss on machinery.....	1,000
Total loss.....	\$2,000

Apportionment

	<i>Stock</i>		<i>Machinery</i>		<i>Total payment</i>
	<i>Insures</i>	<i>Pays</i>	<i>Insures</i>	<i>Pays</i>	
Blanket insurance.....	\$2,000	\$1,000	\$1,000	\$ 500	\$1,500
Specific insurance..	....	.. ..	1,000	500	500
Totals	\$2,000	\$1,000	\$2,000	\$1,000	\$2,000

The Kinne Rule

The Kinne Rule, as adopted by the Fire Underwriters' Association of the Pacific in 1885, and reaffirmed by written agreement between the companies in 1910, has been mandatory in Pacific Coast territory. The rule as it appears in the written agreement is set out in full:

Principle. The principle governing all apportionments of non-concurrent policies is that blanket and specific insurance must be regarded as coinsurance; and blanket insurance must float over and contribute to loss on all subjects under its protection, in the proportions of the respective losses thereon, until the insured is indemnified, or the policy exhausted.

Steps to Be Taken. The correct method of applying the principle has been formulated in the following:

1. Ascertain the non-concurrence of the various policies and classify the various items covered into as many groups as the non-concurrence demands, whether of property, location or ownership.
2. Ascertain the loss on such groups of items separately.
3. If but a single group is found with a loss upon it, the amounts of all policies covering the group contribute pro rata.

4. If more than one group has sustained a loss, and such loss on one or more groups be equal to or greater than the total of blanket and specific insurance thereon, then let the whole amounts of such insurance apply to the payment of loss on such groups.

5. *Apportionment.* If more than one group has sustained a loss, and such loss be less than the totals of unexhausted blanket and specific insurance thereon, then apportion the amount of each policy covering blanket on such groups, to cover specifically on such groups in the same proportion that the sum of the losses on such groups bears to the loss on each individual group. (See note.)

NOTE: When a group is covered by one or more blanket policies, it would be well to see at once if an apportionment as above on that group would equal the loss, as, in case it will not, it will show without further calculation that the whole amount of loss on such group must be met by such policies pro rata, and the remainder only apportioned. In such cases, carrying out Step 6 simply accomplishes by a longer process what here is indicated.

6. *Reapportionment.* If the loss on any group or groups is then found to be greater than the sum of the now specific insurance as apportioned, add sufficient to such specific insurances to make up the loss on the group taking the amount of the deficiency from the now specific insurances of the heretofore blanket amounts previously covering the new deficient groups, which cover on groups having an excess of insurance, in the proportion that their sums bear to the individual amounts.

NOTE: Very rarely are new deficiencies created by the reapportionment, but if so, simply repeat Step 6.

7. Cause the amounts of all the now specific insurances to severally contribute pro rata to pay the partial losses, and it will be found that the whole scheme has resulted in the claimant being fully indemnified in accordance with the various contracts and on a basis which preserves the equities between the companies throughout.

To simplify matters the following formula is given in order that time may be saved, when no analysis of the principle is desired or argument needed.

Apportionment. Blanket policies covering on more than one group should be divided into specific sums as follows:

Formula (See Step 5):

1. As. the sum of the losses on such groups
2. Is to. the individual loss on each of them
3. So is. the whole amount of policy so covering
4. To. the specific amount to apply on each group

Method of Computation. Divide No. 3 by No. 1 to get per cent, and then multiply by No. 2 (seriatim) to get No. 4.

Reapportionment. Should there not be enough insurance on a group or groups to pay the loss, and some groups have more than enough, a second reapportionment is necessary, though ordinarily but one is needed.

Formula (See Step 6):

1. As the sum of specific insurance (with surplus)
2. Is to the individual amount of each of them
3. So is the sum to be provided
4. To the amount each group will contribute

Method of Computation. Divide No. 3 by No. 1 to get per cent, and then multiply by No. 2 (seriatim) to get No. 4.

Repeat Step 6 when necessary.

The deficient groups can now be fortified by the exact amounts needed to pay the losses, and the problem is at once narrowed down to an ordinary mathematical one.

Contribution. All groups have now specific insurance on them, and will pay the losses pro rata, whereby absolute indemnity to the insured, and equitable contributions by the companies are attained on the proper and unchanging principle of loss to loss.

It is first necessary to separate the property destroyed or damaged into as many groups as the non-concurrency of the various policies demands. The non-concurrency may be because different classes of property are covered by the insurance, or the property may be in different locations, or there may be different interests. It then becomes necessary to ascertain the amount of loss on each item of property destroyed or damaged which is now the subject of specific insurance.

EXAMPLE OF APPORTIONMENT OF INSURANCE UNDER KINNE RULE*

<i>Facts</i>	
<i>Insurance</i>	
Company A, general merchandise	\$ 5,000
Company B, general merchandise	6,000
Company C, boots and shoes	2,500
Teas and coffees	3,000
Hardware	2,000
Total insurance	<u>\$18,500</u>
Losses, boots and shoes	\$ 3,000
Teas and coffees	4,000
Hardware	8,000
Total loss	<u>\$15,000</u>

* Thornton, A. W., "Apportionments under Non-concurrent Policies and Exemplification of the Kinne Rule," Annual Report of the Proceedings of the Fire Insurance Society of San Francisco, 1910-1911, Problem 7, Page 11.

First Apportionment of Insurance

<i>Company</i>	<i>Boots and shoes</i>	<i>Teas and coffees</i>	<i>Hardware</i>
A.....	\$1,000 ($\frac{3}{15}$ of \$5,000)	\$1,333 33 ($\frac{4}{15}$ of \$5,000)	\$2,666 67 ($\frac{8}{15}$ of \$5,000)
B.....	\$1,200 ($\frac{3}{15}$ of \$6,000)	\$1,600.00 ($\frac{4}{15}$ of \$6,000)	\$3,200.00 ($\frac{8}{15}$ of \$6,000)
C.....	\$2,500 (specific)	\$3,000.00 (specific)	\$2,000 00 (specific)
Totals....	\$4,700	\$5,933.33	\$7,866 67 (insufficient)

Deficiency on hardware = \$133.33 (\$8,000 - \$7,866 67)

\$60.60 ($\frac{5}{11}$ of \$133.33) to be secured from A as follows:

\$25.97 ($\frac{3}{7}$ of \$60.60) from boots and shoes

\$34.63 ($\frac{4}{7}$ of \$60.60) from teas and coffees

\$72.73 ($\frac{9}{11}$ of \$133.33) to be secured from B as follows:

\$31.17 ($\frac{3}{7}$ of \$72.73) from boots and shoes

\$41.56 ($\frac{4}{7}$ of \$72.73) from teas and coffees

Reapportionment of Insurance

<i>Company</i>	<i>Boots and shoes</i>	<i>Teas and coffees</i>	<i>Hardware</i>
A.....	\$974.03 (\$1,000 - \$25.97)	\$1,298 70 (\$1,333 33 - \$34 63)	\$2,727.27 (\$2,666.67 + \$60 60)
B.....	\$1,168 83 (\$1,200 - \$31.17)	\$1,558.44 (\$1,600 - \$41.56)	\$3,272 73 (\$3,200 + \$72.73)
C.....	\$2,500.00	\$3,000.00	\$2,000 00
Totals....	\$4,642.86	\$5,857.14	\$8,000 00

Final Apportionment

<i>Company</i>	<i>Boots and shoes</i> <i>Loss \$3,000</i>		<i>Teas and coffees</i> <i>Loss \$4,000</i>		<i>Hardware</i> <i>Loss \$8,000</i>	<i>Total</i> <i>Loss \$15,000</i>	
	<i>Insures</i>	<i>Pays</i>	<i>Insures</i>	<i>Pays</i>	<i>Insures and pays</i>	<i>Insures</i>	<i>Pays</i>
A.....	\$ 974 03	\$ 629 37	\$1,298 70	\$ 886 92	\$2,727 27	\$ 5,000	\$ 4,243 56
B.....	1,168 83	755.24	1,558 44	1,064 30	3,272 73	6,000	5,092 27
C.	2,500 00	1,615 39	3,000 00	2,048 78	2,000 00	7,500	5,664 17
Totals.....	\$4,642 86	\$3,000.00	\$5,857.14	\$4,000 00	\$8,000 00	\$18,500	\$15,000 00

The Limit of Liability Rule

The sound value of and loss on property covered by each class or kind of insurance having been determined, first find the limit of liability under each class or kind of insurance, whether a single policy or group covering concurrently. The limit of liability will be (a) the amount of insurance or (b) the amount of loss or (c) the Coinsurance, Reduced Rate Contribution, or Average Clause limit. Whichever is smallest is the limit as it is the greatest amount for which the insurance is liable.

Next add the limits as above determined. If the total exceeds the whole loss, each group will then pay that proportion of the whole loss which its limit bears to the sum of all limits. If the sum of the limits of liability is less than the whole loss, it is evident that payment by each company must be on the basis of its maximum individual limit of liability on the principle that the greatest possible collectible loss is due the insured.

EXAMPLE

	<i>Value</i>	<i>Loss</i>		<i>Average clause %</i>
Stock....	\$ 8,504.95	\$ 8,504.95	\$ 3,000 specific insurance...	80
Machinery	19,287.72	8,050.00	9,000 specific insurance	80
			28,000 blanket, stock and machinery	90
Totals....	\$27,792.67	\$16,554.95	\$40,000	

	<i>Apportion- ment</i>	<i>Limit of liability</i>	<i>Pays</i>
Specific insurance on stock. . .	\$ 3,000.00		
Average Clause computation would be $\frac{3,000}{80\% \text{ of } 8,504.95} \times 8,504.95 \dots$	3,750.00		
The loss on stock is . . .	8,504.95		
The smallest of these amounts is the limit of liability . . . . .	.....	\$ 3,000.00	\$2,048.01 $\left(\frac{3,000}{24,250.30} \right)$
Specific insurance on machinery .	9,000.00		
Average clause computation would be $\frac{9,000}{80\% \text{ of } 19,287.72} \times 8,050.00 \dots$	4,695.35		
The loss on machinery is . . .	8,050.00		
The smallest of these amounts is the limit of liability . . . . .	.....	4,695.35	3,205.37 $\left(\frac{4,695.35}{24,250.30} \right)$
Blanket insurance on stock and machinery	28,000.00		
Average clause computation would be $\frac{28,000}{90\% \text{ of } 27,792.67} \times 16,554.95 \dots$	18,531.61		
The loss on stock and machinery is	16,554.95		
The smallest of these amounts is the limit of liability . . . . .	.....	16,554.95	11,301.57 $\left(\frac{16,554.95}{24,250.30} \right)$
Totals . . . . .	.....	\$24,250.30	\$16,554.95

Other Rules. There are two other rules of apportionment that are occasionally used where they are sanctioned by the courts: the Reading Rule and the Gradual Reduction Rule.

The *Reading Rule*, also known as the Blake Rule and the Massachusetts

Rule, sanctioned by the Pennsylvania and Massachusetts courts, may be stated as follows:

The blanket policy is distributed among the several items of property covered, in that proportion which the value of each bears to the value of all, and the amount thus allotted to each item contributes with the specific insurance on that item.

EXAMPLE

	Value	Loss	Insurance	
			Specific	Blanket on A, B, C
Building A	\$1,000	\$100	\$1,000	\$2,000
Building B	1,000	500	1,000	
Building C	2,000	Nil	Nil	
Totals	\$4,000	\$600		

No coinsurance or average clause in any policy.

STEP 1: Distribute the blanket insurance among the items covered in proportion to values:

			<i>Blanket covers</i>
Building A	\$1,000	$\frac{1}{4}$ of \$2,000	\$ 500
Building B	1,000	$\frac{1}{4}$ of \$2,000	500
Building C	2,000	$\frac{1}{2}$ of \$2,000	1,000
			<u>\$2,000</u>

STEP 2: Apportion loss between specific insurance on each building and the part of the blanket insurance that has been made to cover it by the distribution.

	Building A		Building B		Building C		Total	
	Insures	Pays	Insures	Pays	Insures	Pays	Insures	Pays
Specific	\$1,000	\$ 66.67	.. .	.. .	.. .	.. .	\$1,000	\$ 66.67
Specific . . . . .	.. .	.. .	\$1,000	\$333.33	.. .	.. .	1,000	333.33
Blanket	500	33.33	500	166.67	\$1,000	.. .	2,000	200.00
Totals	\$1,500	\$100.00	\$1,500	\$500.00	\$1,000	.. .	\$4,000	\$600.00

The *Gradual Reduction Rule* may be stated as follows:

The blanket insurance contributes from its full amount with the specific insurance on the specifically insured item to which the insurance is first to be

apportioned, and its remainder with the specific insurance on the next item, and so on until the insurance is apportioned to all items, or until the blanket insurance is exhausted. If there is property which is covered only by the blanket insurance, the loss on such property is first paid out of the blanket insurance.

The rule is variously known as the Connecticut Rule, the Hartford Rule, the Schmaelzle Rule, the Chicago Rule, and the Western Rule. It is sanctioned by the Connecticut and the New Jersey courts. It is now rarely used.

The order to be followed in apportioning blanket insurance to specifically insured items is decided by the version of the rule to be used. In Connecticut and New Jersey, the item on which the largest loss has occurred is the first to which blanket insurance is to be apportioned, and thereafter items are dealt with in the order of diminishing loss. In Chicago, when specific insurance on the items is written under a schedule form, the order follows the sequence of items as they appear in the schedule form. The Western Rule requires the items to be taken up in the order that will result in the smallest payment by the blanket policy. This order can be determined only by experiment.

The following example shows the application of the Western Rule in a loss which resulted in great controversy, but in which the figures were finally accepted by all companies because the apportionment followed the accepted custom then prevailing in the West.

EXAMPLE

	<i>Value</i>	<i>Loss</i>	<i>Insurance</i>	
			<i>Specific</i>	<i>Blanket</i>
General machinery.. . . .	\$ 7,556.95	\$3,824.61		
Folder.....	500.00	25.00	\$ 500	
Perforator.....	600.00	25.00	500	
Dexter folder.....	2,400.00	62.50	1,800	
Press C59848	435.00	125.00	500	\$15,000
Press C58265.....	545.00	145.00	400	
Stitcher.....	454.00	150.00	400	
Saw trimmer.....	462.00	150.00	400	
Totals.....	\$12,952.95	\$4,507.11		

No coinsurance or average clause in any policy.

Apportionment

<i>Property or Item</i>	<i>Insures</i>	<i>Pays</i>	<i>Recapitulation</i>	
			<i>Specific</i>	<i>Blanket</i>
General machinery, blanket first pays full loss	\$15,000	\$3,824.61	.. ..	\$3,824.61
Folder, blanket remainder	\$11,175.39	23.93	.....	23.93
Specific	500.00	1.07	\$ 1.07	
	\$11,675.39	\$ 25.00		
Perforator, blanket remainder	\$11,151.46	\$ 23.93	.....	23.93
Specific	500.00	1.07	1.07	
	\$11,651.46	\$ 25.00		
Dexter folder, blanket remainder	\$11,127.53	\$ 53.80	.....	53.80
Specific	1,800.00	8.70	8.70	
	\$12,927.53	\$ 62.50		
Press, C59848, blanket remainder	\$11,073.73	\$ 119.60	.....	119.60
Specific	500.00	5.40	5.40	
	\$11,573.73	\$ 125.00		
Press, C59265, blanket remainder	\$10,954.13	\$ 139.89	.....	139.89
Specific	400.00	5.11	5.11	
	\$11,354.13	\$ 145.00		
Stitcher, blanket remainder	\$10,814.24	\$ 144.65	.....	144.65
Specific	400.00	5.35	5.35	
	\$11,214.24	\$ 150.00		
Saw trimmer, blanket remainder	\$10,669.59	\$ 144.58	.....	144.58
Specific	400.00	5.42	5.42	
	\$11,069.59	\$ 150.00	\$32.12	\$4,474.99
				32.12
				\$4,507.11

Nonconcurrency of Clauses Only. When policies insure the same interest and cover the identical property, but some contain coinsurance or average clauses while others do not, or all contain such clauses but of differing percentages, three steps are necessary to determine the amount for which each policy is liable:

1. Apportion the loss according to the prorata provision of the policies, ignoring coinsurance or average clauses.

2. Compute the amount for which the insurer under each policy containing a coinsurance or average clause would be liable if it were the only policy.

3. Make a final apportionment, setting up the prorata liability of each policy that does not contain a coinsurance or average clause, and the lesser amount for which each policy containing such a clause is liable as determined by steps one and two.

EXAMPLE 1

<i>Value</i>	<i>Loss</i>		<i>Insurance</i>
\$4,000	\$3,000	Company A.....	\$2,000 80% coinsurance
		Company B.....	<u>2,000</u> No coinsurance
			\$4,000

Step 1: Prorata Apportionment

	<i>Insures</i>	<i>Loss</i>
Company A.	\$2,000	\$1,500
Company B	<u>2,000</u>	<u>1,500</u>
	\$4,000	\$3,000

Step 2: Coinsurance Clause Liability

$$\text{Company A.} \frac{\$2,000}{80\% \text{ of } \$4,000} \times \$3,000 = \$1,875$$

Step 3: Final Apportionment

	<i>Insures</i>	<i>Pays</i>
Company A.....	\$2,000	\$1,500
Company B.....	<u>2,000</u>	<u>1,500</u>
	\$4,000	\$3,000

EXAMPLE 2

<i>Value</i>	<i>Loss</i>		<i>Insurance</i>
\$7,500	\$200	Company A.....	\$2,000 80% average
		Company B.....	<u>2,000</u> No average
			\$4,000

Step 1: Prorata Apportionment

	<i>Insures</i>	<i>Loss</i>
Company A.....	\$2,000	\$100
Company B.....	<u>2,000</u>	<u>100</u>
	\$4,000	\$200

Step 2: Average Clause Liability

$$\text{Company A.....} \frac{\$2,000}{80\% \text{ of } \$7,500} \times \$200 = \$66.67$$

Step 3: Final Apportionment

	<i>Insures</i>	<i>Pays</i>
Company A.....	\$2,000	\$100.00
Company B.....	<u>2,000</u>	<u>66 67</u>
	\$4,000	\$166.67

When two or more policies are involved, the amount to be paid under a policy that contains a coinsurance or average clause, as the two examples

show, *may* be determined by the prorata provision in the body of the policy attached to it, depending upon the adequacy or inadequacy of the amount of insurance; but the amount to be paid under a policy that does not contain such a clause is always determined by the prorata provision.

Use of Rules and Steps. It is comparatively easy to master the use of the rules and steps by which problems of apportionment are solved when the terms of the policies are not ambiguous and when those of any policy are not in conflict with the terms of another. When such is the case, solutions can be made logically and mathematically; but when the terms are ambiguous, or in conflict, solutions can only be arbitrary. In cases involving blanket and specific insurance, the National Board Rules¹ provide solutions. There are, however, situations not contemplated by those rules, which were formulated to fit situations that had been troublesome prior to 1927, when the Committee that agreed upon the rules after 7 years of debate was appointed.

Even before that time, underwriters had developed many new covers. Inland marine insurance had become an important branch of the insurance business and had been written under policies covering the perils insured against by fire-insurance companies as well as those insured against by marine companies. After 1934, extended coverage endorsements transformed fire policies into contracts insuring against a number of other perils. Lately there have come the off-premises extension of the household-furniture form and *additional extended coverage*. The new covers have produced new problems of apportionment.

Some of the perils now insured against by fire and marine companies are also insured against by casualty companies. Consequently, there are some losses in which covers overlap.

When the owner-occupant of a dwelling holds policies of different insurers, one covering his dwelling, the other its contents, the question may arise, under which policy should claim be made for stoves, refrigerators, or window shades?

When the owner of household furniture holds specific fire insurance, with the 10 per cent off-premises extension, and an inland-marine personal property floater, the question arises, what is the liability under each cover when articles of personal property are destroyed in an outbuilding?

When the owners of a smelting furnace hold fire policies with an Extended Coverage Endorsement and also a casualty policy covering

¹ See p. 212.

accidents to the boiler, how shall the two covers share the loss if water escapes from a ruptured tube in the boiler mounted above the furnace in order to utilize its heat and, coming in contact with the incandescent metal, is turned into flash steam that blows out the walls of the furnace?

When the owners of a clothing store hold fire-insurance policies with Extended Coverage Endorsements, also mercantile burglary insurance issued by a casualty company, and their store is damaged and looted by rioters, how shall the loss be apportioned between the two covers?

The questions asked cannot be answered authoritatively. The terms of the respective policies are not clear enough to make certain what is the liability under each.

The National Board Rules provide for apportionments when blanket covers overlap specific covers. Other overlappings, however, arise because of the complexity of the present-day scheme of insurance, in which fire, marine, inland-marine, and casualty policies, in various combinations, often cover the same property and insure the same interest against the same peril. A great variety of situations call for apportionment among fire, inland-marine, and casualty policies. In some instances joint losses will be suffered, that is, losses to which all policies contribute to the whole loss, and in others, mixed losses, losses in which some policies contribute to one part of the loss, other policies to another.

The occasional overlapping of fire, inland-marine, and casualty covers has produced so many problems of apportionment that the National Board of Fire Underwriters, the Inland Marine Underwriters Association, and the Association of Casualty and Surety Companies have made a number of agreements among themselves as to the manner in which losses, presenting problems of overlapping covers, should be apportioned. These agreements have been given the title of *Guiding Principles*.

Guiding Principles. At present there are agreements among the fire companies, known as *Fire-Fire*; among the inland-marine writers, known as *Inland-Inland*. There are also agreements between fire and inland-marine writers, known as *Fire-Inland*; and agreements between fire and casualty companies on a limited range of losses, known as *Fire-Casualty*.

Because these agreements are still in a state of flux, it is inadvisable to reproduce them here; they may change at any time.

The adjuster should consult his principal as to the disposition of any loss involving conflicting covers, other than one in which the National Board Rules as to nonconcurrent apportionments are clearly applicable.

Requirements in Case of Loss

Policies covering property generally stipulate that the insured shall give the insurer prompt notice of any loss, do what he can to minimize loss or damage by trying to recover property or protect it from further damage, and within a stated time after the date of the loss, file claim with the insurer and present evidence that will prove the amount and his right to collect it. Thereafter, if the insurer demands it, the insured is required to furnish specified evidence which he must verify, exhibit to the insurer the remains of the property, submit to examination under oath, subscribe transcripts of his testimony, and produce for examination his books of account and other records, from which he must permit extracts and copies to be made. In case he and the insurer fail to agree as to the value of the property or the amount of loss, either may demand that the amount or amounts be determined by appraisal, the insured selecting one appraiser, the insurer one, and the two appraisers then selecting an umpire. In Massachusetts and the states that use the Massachusetts form of fire policy, the persons selected are described as referees, and the proceeding is called a reference. Almost all policies stipulate that the insurer has the option of paying the insured the value of the property and taking it, or of replacing it if it has been lost or destroyed, or of repairing it if it has been damaged. Some policies express the option in a stipulation that all adjusted claims shall be paid or made good to the insured after presentation and acceptance of satisfactory proof of interest and loss.

Generally, policies prohibit abandonment of the property to the insurer.

If a mortgagee is named in a policy as a payee and the insured has failed to comply with the requirements to file proof of loss, the mortgagee must, under the New York Standard Fire Policy, after receiving notice of the insured's failure, file the proof. He must then comply with any other

requirement that the insurer would otherwise call on the insured to fulfill.¹

The adjuster should familiarize himself with the requirements in case of loss as set forth in the various kinds of policies under which he ordinarily adjusts losses.

Notice. The insured is ordinarily required to give immediate notice to the insurer of any loss or damage. When this is done, the insurer, if it so desires, will dispatch an adjuster to make a prompt inspection and possibly suggest measures to protect the property from further damage if it has not been destroyed. If notice is not given promptly, the insurer usually comments on the delay when referring the loss to the adjuster. There are times, however, when notice of loss is given without mentioning the date, and the adjuster does not discover the delay until he makes his investigation. When such is the case, the reason for the delay should be determined, and if the interests of the insurer have been adversely affected, the facts should be reported before the loss is settled.

In the ordinary course of business, written notice of loss is given by the local agent or by some representative of the insured, generally a broker or a public adjuster. Failure to give notice of loss will, in some states, bar recovery, but the courts have been prone to hold that the provision requiring notice will be waived if the company or its agent has learned of the loss and made provision for its investigation. The courts have also tended to hold that, if notice is given within a reasonable time, the requirement of the policy is complied with.

Obligation to Minimize Loss. The insured's obligation to do what he can to minimize his loss is set forth in the New York Standard Fire Policy and similar policies in the short and simple statement that he shall "protect the property from further damage."

In most inland-marine policies the obligation is set forth in the *sue-and-labor clause* which ordinarily reads:

In case of loss or damage it shall be lawful and necessary for the insured, his or their factors, servants, or assigns, to sue, labor and travel, in and about the defense, safeguard and recovery of the property insured hereunder, or any part thereof, without prejudice to this insurance; nor shall the acts of the insured or this insurer in recovering, saving and preserving the property insured in case of loss and damage, be considered a waiver or acceptance of an abandonment, to the charges

¹ A discussion of requirements as they relate to mortgagees will be found in Chap. 8.

whereof this insurer will contribute according to the rate and quantity of the sum herein insured.

In the automobile policy it is stated that:

When loss occurs, the named insured shall: (a) Protect the automobile, whether or not the loss is covered by this policy. . . .

The methods that the insured shall employ to minimize loss are described in later chapters discussing the several kinds of property and risks that ordinarily come before the adjuster.¹ The adjuster is expected to enforce the requirement of the policy that the insured minimize loss.

Protective measures are usually carried out by the insured, but there are times when the adjuster will find it advantageous to direct or even take over the work.

While the insured is not entitled to collect for further damage that occurs because of his failure to protect the property, it is very difficult for the adjuster to exclude any such damage from consideration in the final settlement. The adjuster should, therefore, endeavor to prevent further damage, so that at least one possibility of controversy will be eliminated from adjustment negotiations.

Personal Property. Under the New York Standard Fire Policy the insured is required to separate the damaged and the undamaged personal property, put it in the best possible order, and make a complete inventory of it. These requirements provide a routine by which the true condition of the property will be made evident, and an inventory on which the insured can base his claim and the adjuster can intelligently make his offer of settlement. As explained elsewhere,² there are many methods of facilitating the work. These methods should be presented to claimants who try to force an adjustment at a lump-sum figure before a separation is made. Some claimants will seek to avoid the labor and time needed to separate property and put it in order, while others will do their utmost to prevent a separation, hoping to keep the property in such a state of disorder that it will present the worst possible appearance and thus influence the adjuster to make a greater allowance for loss than he would otherwise do. The courts have upheld the requirement of separation of damaged

¹ See Chaps. 9, 11, and 12.

² See pp 317, 342, 383.

and undamaged property, and the adjuster need have no hesitancy in demanding that separation be made.

Real Property. The New York Standard Fire Policy does not prescribe the nature or form of evidence that the insured shall present when the property destroyed or damaged is a building. Customarily, the insured presents a builder's, engineer's, or architect's estimate of the cost of replacing the building, if it has been destroyed, or of the cost of repairing it, if it has been damaged. The policy provides that the insurer may require the insured to produce verified plans and specifications of any building destroyed or damaged.

Proof of Loss. The words *proof of loss* have two meanings: (1) the evidence offered by the insured to prove that he is entitled to collect from the insurer the amount he claims, and (2) the statement, signed and sworn to by the insured, setting forth what he is required to state according to the policy or according to the blank furnished him by the insurer.¹

According to the first meaning the insured makes proof that he is entitled to collect by tendering to the adjuster the policy covering the property, by exhibiting the remains of the property, by offering testimony or other evidence of loss or damage, by testimony or by fire-department or police records indicating when the loss occurred, by testimony, deed, or bill of sale showing interest, and by testimony, or documentary or physical evidence bearing on the amount of loss.

According to the second meaning the insured makes proof when he completes, executes, and files with the insurer the blank form used by the insurer and bearing the imprint "proof of loss."

Some policies require the insured to furnish "satisfactory proof of loss," some to furnish "affirmative proof of loss," and others to "file a proof of loss" or "furnish the insurer with a satisfactory proof of loss and interest upon forms to be provided by the insurer."

Most policies require that proof of loss be filed within a stipulated time following date of loss, usually 30, 60, or 90 days. A few policies provide that, unless proof is rendered within the stipulated time, the claim shall become null and void. More than 30 years ago, New Jersey provided by statute that, if the insurer intended to enforce a forfeiture of the claim because of the insured's failure to render proof within the stipulated time, it must so notify the insured in writing. Lately, New York has, by a similar statute, provided that the insurer must not only notify the insured in

¹ See Appendix A.

writing that, unless proof of loss is filed within the time stipulated in the policy, it will declare the claim forfeited, but must also furnish him with a blank proof-of-loss form. In other states the courts have held that failure to render or file proof within the time stipulated in the policy is not a bar to recovery but that the insured may not commence suit until he has filed or rendered proof, and the stipulated time thereafter, usually 60 days, has expired.

The New York Standard Fire Policy and similar policies require that within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating his knowledge and belief as to

- (1) the time and origin of the loss
- (2) the interest of the insured and of all others in the property
- (3) the actual cash value of each item thereof and the amount of loss thereto
- (4) all encumbrances thereon
- (5) all other contracts of insurance, whether valid or not, covering any of said property
- (6) any changes in the title, use, location, possession or exposures of said property since the issuing of this policy
- (7) by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss, and
- (8) whether or not it then stood on leased ground.

As part of the proof the insured "shall furnish a copy of all the descriptions and schedules in all policies."

While the policy requires the insured to render proof of loss to the company, the adjuster will ordinarily suggest that, if the adjustment can be completed without unusual difficulty or delay, he will himself prepare for the insured's execution a proof of loss when the claim has been adjusted, or he may suggest that the insured delay making and filing the proof until the adjustment is completed. On the other hand, if the adjuster wishes to commit the insured to a definite statement of facts, he may ask that proof of loss be filed without delay. In an extreme case, he may refuse to have any dealings with the insured and await, or call for, the filing of the proof of loss. If the insured is to be examined under oath, or an appraisal is to be held, the filing of the proof of loss may be awaited before commencing examination or appraisal in order to avoid the possibility of a later contention that rendering of the proof of loss has been waived.

If a proof of loss is filed claiming a greater loss than is later agreed upon or established by appraisal, it may be amended to conform to the agreed or appraised figure. If only one policy is involved, the amendment may be a simply worded letter, signed by the insured, stating that the sound value and the loss and damage have been agreed on at stated figures. If several policies are involved, a new statement and a reapportionment should be made with a sufficient number of copies to furnish one for each policy. These copies should be dated, signed by the insured, and attached to the original proofs of loss.

Waiver of Proof of Loss. The requirement that the insured render or file a proof of loss may be waived by certain acts on the part of the insurer or its representatives. If the insurer or the adjuster denies liability, the insured may proceed to sue at once without filing proof of loss. In some states, the requirement will be waived if the adjuster promises to prepare the proof of loss for the insured. In other states, an attempt to adjust the loss will operate to waive proof of loss, unless the adjuster puts the insured on notice that proof of loss will be required. The subject is a technical one, and the adjuster should inform himself of the customs and court decisions of the territory in which he operates.

Defects and Objections. The paper offered by an insured as a proof of loss may omit one or more of the statements prescribed in the policy. If so, it will be defective and will not be a compliance with the requirement of the policy. But the courts have generally held that when the insured tenders a defective proof the insurer will be held to have waived any defects unless they are promptly pointed out to the insured so that he may have a chance to correct them. If they are pointed out promptly and are not corrected, the insured is in the same position as if he had filed no proof whatsoever. Formerly much attention was devoted to letters¹ rejecting defective proofs or objecting to those claiming an excessive amount. Present practice is drifting toward less formal correspondence, the tendency being simply to point out any failure to make a required statement, or to pass unanswered a proof of loss claiming more than the adjuster's estimate, unless the adjuster decides to ask for an appraisal or an examination under oath. Ordinarily a proof of loss is nothing more than the ex parte statement of the person signing it and, therefore, does not fix the amount of the loss. The California policy is probably responsible for a

¹ See Appendix H.

rather widespread impression that, if the insurer holds the insured's proof without objecting to the amount claimed, it will thereafter be estopped from contesting it. Such an estoppel would be enforced in California, as the standard policy of that state provides that the company shall be deemed to have assented to the amount of loss claimed in the insured's proof, unless objection is made within 60 days.

An objection to a proof of loss on the ground that it does not show in detail how the insured arrives at the figures of sound value and loss or damage will not be sustained by the courts. The insured satisfies the requirement of the policy when he makes, under oath, the statements that it specifies. If the loss involves personal property, detailed information is to be set out in the inventory that the insured must furnish; if it involves a building, the insurer under a New York Standard Fire Policy may demand verified plans and specifications. It is best to avoid making objection to a proof of loss unless the objection is one that can be sustained, for if the loss becomes the subject of litigation, the court will be inclined to comment unfavorably on the adjuster's attempt to delay coming to the real issue of the loss by tactics that are not technically correct.

The language of the 1886 edition of the New York Standard Fire Policy was responsible for much confusion on the subject of proof of loss. In that policy it was stated that the right to bring suit did not accrue until the insured had complied with the conditions of the policy, and until 60 days after "satisfactory proof" of the loss had been received by the company. The words "satisfactory proof" were taken by some to mean the sworn statement of the insured, made in a manner that satisfied the requirements laid down in the policy. They were taken by others to mean also the evidence presented by the insured in order to prove that he had suffered loss or to prove the amount of the loss. The latter meaning seems to be more logical and to have been supported by the courts. When an insurance case is tried, the insured's proof of loss, if one was made, is ordinarily part of the evidence. The insurer's attorney invariably objects to it if it is offered as evidence to prove the amount of loss, and this objection is usually sustained. The insured's attorney then, as a rule, offers it as evidence that the insured has complied with the policy requirement that he file a proof of loss. When offered for this purpose, the court allows it to go into the record.

Special Requirements, New York Standard Policy. If required by the insurer, the insured, under the New York Standard Fire Policy, must substantiate his claim by furnishing verified plans and specifications of any building, fixtures, or machinery damaged or destroyed. This requirement is occasionally used by the adjuster, as, with plans and specifications in hand, the ruins or debris left after a serious fire can be checked intelligently, and the replacement cost of the property determined.

As often as may be reasonably required, the insured must exhibit to any person designated by the insurer all that remains of any property described in the policy, this requirement securing for the adjuster access to the property and the opportunity of having it examined by persons competent to say what has happened to it, or to estimate or determine its value and the damage it has sustained. In addition, the insured must submit to examinations under oath and subscribe transcripts thereof, and produce for examination books of account, bills, invoices, and other vouchers, or certified copies if the originals are lost, at such reasonable time and place as may be designated by the insurer and permit extracts and copies thereof to be made. The information to be gained by the use of these requirements is often of great value in verifying or disproving a claim.

The insured is bound to comply with special requirements only when he is notified to do so before the loss becomes payable. The loss becomes payable 60 days after proof of loss is received by the insurer and ascertainment of the loss is made either by agreement between insured and insurer expressed in writing or by the filing with the insurer of an award of appraisers.

Verified Plans and Specifications. Verified plans and specifications may be required for buildings, machinery, or fixtures. The verification must be made by the insured, and the plans and specifications, themselves, must be complete. Notice that plans and specifications will be required should ordinarily be given by letter stating specifically what property is to be covered. The requirement may be enforced as to any property on which claim is made. Plans and specifications are of the greatest value when the claim involves property that has been totally destroyed. In such a case, the adjuster or the expert working under his directions will have little definite information to work on until plans and specifications are prepared. With accurate plans and specifications in

hand, the replacement cost of the property can be estimated with reasonable accuracy.

Exhibition of the Remains of Property. The insured, as often as may reasonably be required, must exhibit to any person designated by the insurer all that remains of any property described in the policy. Because of this requirement, the adjuster and the experts in his employ have access to the property and the right to examine it, a right, however, that must be reasonably used. There are few cases in which it is necessary to make demand for compliance in writing. In such cases, the notice should name the person to whom the property is to be shown and should state the date and hour of his visit. Ordinarily, persons sent to examine property are not asked for credentials, if the insured has been told to expect them. If the insured has not been notified, the persons sent should be furnished with a letter of authority.

Examinations under Oath. As often as may reasonably be required, the insured must submit to examinations under oath by any person designated by the insurer and subscribe the same. In other words, he must give testimony under oath and sign the written record of the questions and his answers. Formerly many examinations were conducted by adjusters, but in recent years examinations have more and more often been referred to lawyers because of their greater experience in questioning witnesses. When an examination is to be required, the insured should be notified in writing,¹ the notice stating a definite time and place for the examination, and also the name of the person designated to conduct it. It is frequently advisable to state that the time and place named may be changed, if, in the opinion of the insured, they are not reasonable.

Prior to the beginning of an examination, the insured should be put under oath by a notary public, commissioner of deeds, or other person empowered by law to administer oaths. The insured's signature to the transcript of the examination should be attested to by the same kind of person, not necessarily the same one.

An examination may be required for the purpose of developing information, or committing the insured to known facts. The date on which property was acquired and the price paid for it are often subjects of inquiry. Its use while in possession of the insured and its condition at the time of the loss are sometimes developed by examination. The history of the in-

¹ See Appendix J.

sured and what he has to say about the origin of the fire are, in some cases, worth bringing out. If there are reasons to suspect incendiarism, the insured may be asked to tell what he knows about persons who are thought to be in collusion with him, where they were at the time of the fire, and whether they had possession of keys to the premises. If the loss involves the examination of a set of books, the method of keeping them and the significance of unusual entries may be inquired into. In all such cases, the answers furnish leads that can later be followed and the findings compared with other evidence that will corroborate or contradict them. An insured who makes evasive or contradictory statements when not under oath will be compelled, when later put under examination and held to the record of his answers, to tell a consistent story or make himself ridiculous or possibly subject to prosecution for perjury or for making false proofs of loss.

An examination may serve the purpose of committing the insured to facts establishing a breach of the policy contract, or to statements and figures bearing on the amount of loss. When such testimony comes from the insured, it is highly valuable, but it is well to remember that it will not prevent him from later changing his story, if he is bold enough to do so. In such a case, however, the record of the examination may be used to contradict him, and his credibility as a witness may be attacked, when he is forced to admit that his testimony on the two occasions was different.

In many cases, however, an examination is conducted to shake the purpose of an insured who is pressing a fraudulent or exorbitant claim. In these cases the solemnity of the oath, the fear of later contradiction, and the knowledge that each answer will be checked against whatever evidence is available, will often work a change in the insured's attitude. He will be cautioned that the policy provides for avoidance in case of fraud or false swearing and will realize that, if he gives false answers and is contradicted, his claim will be still further endangered. His fear or nervousness will be heightened by questions that indicate that the person asking them knows the facts of the case. Under such circumstances he may be driven to admissions that will cause him to modify or abandon his claim.

It is rarely safe to commence an examination until after the person who is to conduct it has thoroughly familiarized himself with all information to be had and can reasonably expect that the insured will be impressed by certain specific questions. An examination conducted at random may

occasionally produce a result favorable to the insurer, but as a general rule it is a waste of time.

Production of Books and Records. As often as may reasonably be required, the insured must produce for examination all books of account, bills, invoices, and other vouchers or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the insurer or its representative, and must permit extracts and copies thereof to be made. By reason of this requirement, the adjuster is enabled to make a thorough examination of books and records kept by the insured or to have an accountant audit the books and report on them. When a written request is made for the production of books, its language should follow that of the policies, and when the books are received they should be listed and identified, and the insured should be required to state definitely whether all books, invoices, and other vouchers connected with his business, or the property involved, have been produced. Extracts and copies are at present most efficiently made by photostatic and photographic processes, entries that show signs of alterations frequently producing interesting exhibits when photographed through a magnifying lens.

Other Specified Evidence. Some fire policies contain an *iron safe clause* or a *record warranty clause* requiring the keeping of books or records in a prescribed manner and their preservation and production in case of loss. A similar stipulation appears in the mercantile-open-stock burglary policy, to the effect that the insurer shall not be liable for loss or damage unless records are kept by the insured in such manner that the insurer can accurately determine from them the amount of loss or damage. Burglary policies also generally stipulate that the insurer is not liable for loss unless there are visible marks of felonious entry made by tools, explosives, electricity, or gas or other chemicals. When the adjuster handles a loss under a policy specifying such evidence as a prerequisite to liability, his report must show in detail the evidence that the insured presented for his consideration.

Appraisal or Reference. The appraisal, or reference, provision of the policy is included to provide a method for settling disagreements as to the amount of loss without resort to litigation. The provision is framed so that, following a disagreement, either the insured or the insurer may demand its use. While disagreement must precede demand, the parties may by mutual agreement institute an appraisal at any time. Appraisals are usually conducted under written agreement or memorandum¹ naming

¹ See Appendix I.

the appraisers selected, but may be held under oral agreement, as the policy does not provide for a supplementary written contract. When the appraisers are appointed, it becomes their first duty to select an umpire. In several states the laws provide for the selection of an umpire by the court or the insurance commissioner, if the appraisers fail to make a selection within a stated time. After the umpire is selected or appointed, the appraisers together estimate and appraise the loss, submitting any differences to the umpire. In common practice the umpire usually looks over all figures developed by the appraisers, although he should confine his examination to those in which there are differences. The insured is legally entitled to a hearing before the appraisers if he asks it, and if refused he may plead the refusal in objection to the award. An award signed by any two of the three acting as appraisers and umpire fixes the amount of loss. After the award, the insured and the insurer pay the appraiser respectively selected by each, and bear equally the charge of the umpire and the expense of the appraisal.

Demand. Neither insured nor insurer may properly demand an appraisal until after an actual disagreement has occurred. Such a disagreement cannot occur before a bona-fide effort has been made by both parties to determine the amount of loss. When demand is made by the insurer, it should be in writing, should state that disagreement has occurred, should name and identify the appraiser selected by the insurer, and should call on the insured to select and present his appraiser. Identification by giving the appraiser's name and address is sufficient. A demand should not incorporate any qualifications, such as the elimination of certain property from the purview of the appraisal, or the statement that a certain form of memorandum or agreement be signed. A demand may well suggest the signing of an agreement or memorandum as a record but should not insist on it. Under policies providing for reference, the demand should nominate three persons from whom the insured is to select one, and should call on the insured to nominate three to be presented by him, so that the insurer may likewise select one.

The courts have regularly held that when the insurer demands an appraisal the insured must submit to it, otherwise he is estopped from bringing suit. They have also held that the insurer cannot be made to submit to the insured's demand for appraisal, but if the insurer refuses to do so, the insured may bring suit at once for payment of his claim.

Adjuster's Contact with the Appraisers. Theoretically, appraisers are supposed to proceed with the appraisal on their own initiative, first selecting an umpire, or applying to the court for an appointee if selection fails. Actually, the appraisers are seldom free from constant pursuit by the claimant or his representatives, whose efforts are directed toward securing the choice of an umpire favorable to the claimant, and an award in keeping with the claim. It is, therefore, important that the adjuster be prepared to advise with his appointee at any time. He must, however, avoid interference with the appraisal, or acts which might be construed as such, lest the insured plead interference in objection to the award. If the appraisers ask for testimony, the adjuster should present his witnesses and see that their testimony is fairly heard, and likewise see that the insured's witnesses are properly examined by or before the appraisers. The appraisers may ask the parties to examine the witnesses, in which event the adjuster must function in the same way as a trial lawyer. While appraisers are authorized to take testimony, the authority is seldom exercised except in New England where appraisal takes the form of reference. If the appraisers do not ask for testimony, the adjuster should simply be alert to see that nothing goes wrong in the procedure. In some cases he may wish to offer testimony. If so, the appraisers and the insured should be notified, and a time and place fixed for the occasion.

Finally the adjuster should see to it that the award is free from errors and is rendered in proper form. If the insurance is written under several items, the award should state separately the appraised sound value and loss on each. An otherwise satisfactory award may be invalidated through neglect to itemize it, and the subsequent refusal of the signers to correct it.

Record of Appraisal. The policy does not require the appraisers to record their proceedings or to sign any writing except the award. For convenience, the memorandum or agreement¹ under which appraisals are conducted provide blank affidavits for the appraisers to execute when they qualify, and blank spaces in which to record the selection of the umpire and the figures of the awards. As awards are sometimes disputed, it is advisable for the insurer's appraiser to keep a record of his acts from the time he is notified of his selection until the award is made. Such a record should include copies of letters nominating umpires, unless the selection is agreeably made without delay, and a copy of the appraiser's original estimate

¹ See Appendix I.

showing the items agreed upon and those on which there was a difference. A list of differences should be prepared and given to the umpire. Such a record is always useful in case of litigation, errors, or misunderstandings. When an award is to be made, the details on which it is to be based should be checked and a copy retained in preparation for future contingencies.

Award. When an appraisal is held before the filing of a proof of loss, the result of the award can be incorporated in the proof by a statement naming the appraisers and the sound value and loss awarded. But if the proof of loss was filed before the rendering of the award, an amendment (or reapportionment sheets if more than one policy is involved) should be prepared for the proof.

In the absence of fraud, collusion, or mutual mistake, an award is binding. In some states, the use of a professional appraiser by the insurer is held to be fraud.

Charges for Appraisal. The bill of the company's appraiser should be paid by the adjuster, or approved for payment if in order, also the bill of the umpire for one-half of his charge and one-half of any other proper charges connected with the appraisal.

Options. The New York Standard Fire Policy and others like it give the insurer an option to take all or any part of the property on which claim is made, at the agreed or appraised value, also to repair or replace property damaged or destroyed, provided notice of the intention to exercise such option is given within 30 days after receipt of proof of loss.¹

Taking of Property. The option to take property at the agreed or appraised value is the reason for salvage operations. In some cases the option can be exercised to the insurer's advantage, principally in cases involving damaged merchandise that the insured cannot handle. In such cases, an inventory may be presented by the insured, and the merchandise checked out, or an inventory may be made as the merchandise is taken out of the premises. After an inventory of the first sort is checked, errors due to shortages or overages are corrected, and when prices and depreciation are agreed on, proofs of loss are prepared accordingly. In some cases, the sound value of the merchandise is fixed, a sale is held, and the net proceeds are paid direct to the insured, claim being made under the policies for the balance. This method is known as "selling for account of

¹ The exercise of these options will be discussed in the chapters dealing with the various kinds of property. They are to be exercised only when to do so will be advantageous to the insurer.

the loss." In other cases, the insured is paid the sound value, the proceeds of the sale going to the insurer. This is called "selling for account of the company."

The Underwriters Salvage Company of New York and the Underwriters Salvage Company of Chicago, corporations owned by fire-insurance companies and operated for their benefit, are the salvors doing the most extensive salvage business in the country. There are a number of independent salvors, some of whom are highly efficient. If the adjuster sells any salvage himself, he will avoid much criticism if he follows the rule of having all salvage checks made payable to the insurer or insurers entitled to the proceeds, instead of to himself or to individuals.

Option to Repair, Rebuild, or Replace. The insurer has the option to indemnify the insured by repairing, rebuilding, or replacing the property. The option is generally exercised only when repair, rebuilding, or replacement is acceptable to the insured. The exercise of the option to repair or rebuild is attended by great risk, as the courts have consistently held that, once the insurer begins to repair or rebuild, it must finish the work even though the cost may exceed the amount of the policy.

The option to repair buildings or equipment is seldom exercised because it is attended by the risk of a refusal on the part of the insured to accept the repairs as satisfactory. If there is a refusal, the insurer will have incurred a repair bill without bringing about an adjustment. In extreme cases, insurers have been compelled to pay the repair bill and in addition make a substantial payment direct to the insured. In cases where the option is exercised, the adjuster should first agree with the insured on plans and specifications, and after having the work done, should require the builder or repairman to secure a satisfaction piece¹ from the insured before approving payment of the bill for the work.

Replacements of articles of personal property are often made in normal times and are attended by much less risk than repairs. The article offered in replacement is tendered the insured, who examines it and, if he finds it satisfactory, accepts it.

Abandonment. Fire, inland-marine, and automobile policies, without exception, prohibit abandonment of property to the insurer. The adjuster must make it clear to the insured that, while the insurer has the option of paying the insured the value of his property and taking it, the insured has no contract right by which he may force the insurer to do so.

¹ See Appendix L.

Mortgagees and Other Payees

The adjuster encounters four kinds of payees: (1) the payee named or designated in the policy, (2) the person who has an equitable lien on the proceeds of the policy, (3) the assignee of the claim, and (4) the garnishee or judgment creditor. When adjusting losses in which payees are involved, the adjuster is expected to develop and furnish to the insurer whatever information may be necessary to determine to what persons and in what amounts payment should be made. With proper information in hand, the insurer will know what receipts, releases, or other documents should be executed to discharge it from further liability.

If, in making payment, the wrong person should be paid or the insurer should fail to pay a person who is entitled to some part of the proceeds of the policy, it may later be called upon to make a second payment.

Payee Named or Designated in Policy. Payees named or designated in policies by their interest, or otherwise, are generally (1) mortgagees of real estate or (2) persons or institutions to whom the insured owner of personal property owes money.

Clauses Naming or Designating Payees. Clauses naming or designating payees are of two general kinds: (1) *mortgagee* clauses and (2) *loss-payable* clauses. Under a mortgagee clause, the payee is accorded certain rights to independent treatment and payment. Under a simple loss-payable clause, the payee is entitled to payment only to the extent that the insurer is liable to the insured, except under the Massachusetts Standard Policy, quoted in the next section.

Printed Conditions Relative to Mortgagees. In the Massachusetts Standard Policy adopted in 1873 and revised in 1881, it is provided that:

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee of the covered real estate, no act or default of any

person other than such mortgagee or his agent or those claiming under him, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee nor affect such mortgagee's right to recover in case of loss on such real estate: provided, that the mortgagee shall on demand pay according to the established scale of rate for any increase of risk not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy for which no liability exists as to the mortgagor, or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the company interested, upon such payment, the said mortgage together with the note and debt thereby secured.

The New York Standard Policy, 1943 edition, lines 68 to 85, provides under the heading "Mortgagee Interests and Obligations":

If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of the payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Statutory Rights of Mortgagees. In Massachusetts, the mortgagee's rights under the policy are set forth in greater detail in a special statute. The Massachusetts adjuster should familiarize himself with the statute.

Mortgagee Clause. The New York standard mortgagee clause, intended for use in connection with first-mortgage interests in real estate, reads as follows:

Loss, or damage, if any, under this policy, shall be payable to
as mortgagee (or trustee) as interest may appear, and this insurance, as to the interest of the mortgagee (or trustee) only therein shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale

relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purpose more hazardous than are permitted by this policy; PROVIDED, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall on demand pay the same.

PROVIDED, also, that the mortgagee (or trustee) shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

This Company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy shall continue in force for the benefit only of the mortgagee (or trustee) for ten days after notice to the mortgagee (or trustee) of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee (or trustee) any sum for loss or damage under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may at its option pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of claim.

Similar clauses are used in other states.

The full-contribution clause is the same as the New York standard mortgagee clause except for the addition of the following section:

In case of any other insurance upon the within-described property, this Company shall not be liable under this policy for a greater proportion of any loss or damage sustained than the sum hereby insured bears to the whole amount of insurance on said property, issued to or held by any party or parties having an insurable interest therein, whether as owner, mortgagee or otherwise.

Under this clause the loss is apportioned on a prorata basis to the mortgagee's policy as a matter of contract right.

Loss-payable Clause. Loss-payable clauses generally read substantially as follows:

1. Loss, if any, under this policy, shall be payable to John Doe, as interest may appear.

2. Any loss which may be ascertained and proved to be due the insured under this policy shall be payable to John Doe, as his interest may appear at the time said loss.

The second is now rarely used.

Mortgagor and Mortgagee. The mortgagee of real estate, except in Massachusetts, usually protects his loan by requiring the mortgagor owner to cover the property with policies containing mortgagee clauses making loss, if any, payable to the mortgagee. In Massachusetts, no mortgagee clause is necessary because of the policy conditions and the statute. A simple loss-payable clause suffices in that state.

The quoted policy conditions and the two forms of the mortgagee clause each create a separate contract with the mortgagee. There is, therefore, under any New York or Massachusetts policy or any policy containing the same conditions as to mortgages, a contract with the insured and a separate contract with the mortgagee. In most losses the two contracts will operate alike; in a few, they will operate differently.

Procedure When Losses Payable to Mortgagee. When loss occurs under a policy and is payable to a mortgagee, the ordinary procedure of adjustment will be followed if the policy is valid as to the insured, but quite a different one if it is void as to the insured but valid as to the mortgagee. In the first instance, the designation of the mortgagee as payee will require little more of the adjuster than that he properly prepare the proof of loss. In doing so he should note the name of the mortgagee, the amount remaining unpaid on the mortgage, and the date the mortgage is due.

When the policy is valid as to the mortgagee but void as to the insured, the mortgagee may, in rare cases, be well secured by the remaining value of the property and may elect to make no claim whatsoever, knowing that should he do so he would be compelled to assign to the insurer an interest in his mortgage equal to the amount collected. Ordinarily, however, the mortgagee demands payment. When he does, the adjuster may recommend one of two methods of adjustment: (1) to pay the actual damage and take an assignment or (2) to purchase the mortgage. If the first method is to be used, the amount of loss is determined by agreement or appraisal, the mortgagee taking the place of the insured; if the second, the amount

of the mortgage debt is ascertained and made the basis of the settlement. The mortgagee's assignment of an interest in his mortgage is subordinate to his eventual collection of the full debt due him. When, however, the full amount of the mortgage debt is to be paid by the insurer and the mortgage purchased, the original note or notes, or other papers recording the debt and any payments thereon, should be examined, and the amount due thus ascertained. Any charges, such as taxes or insurance paid by the mortgagee, should be checked for correctness. Payment and assignment are usually left to the insurer's direction and may be made through an attorney who will arrange for foreclosure, if necessary. While forms of assignments are given in the Appendix,¹ the adjuster should not undertake to handle assignments unless specifically directed to do so, as insurers generally prefer to have this done by attorneys.

When loss is made payable to several mortgagees under the same policy, it may become necessary to treat with the mortgagees separately. Their technical rights in such a case are determined by the order of their priority, the first mortgagee being entitled to satisfaction before the second can collect. But when several mortgagees hold separate policies, each one looks to his own policy for the full amount of the loss, though in practice prorata payments are often accepted in partial losses.

While the mortgagee clause gives the insurer the right to treat independently with the mortgagee when it claims that no liability exists as to the insured, it may be necessary for the insurer to prove its claim when it initiates litigation to foreclose on a mortgage that it has taken over.

As a rule, the adjuster has no contact with the mortgagee. The loss is adjusted, and the insurer's check or draft is drawn to the joint order of insured and mortgagee. Nothing arises making it advisable for the mortgagee to look to his separate contract for protection, and there is no reason for the adjuster to have any dealings with him. In exceptional cases, however, direct contact with the mortgagee is necessary (1) when there is a dispute as to the cancellation of the policy before the loss, (2) when the mortgagee objects to the adjustment made by the insured, (3) when the mortgagee refuses to endorse a check or draft payable jointly to him and the insured, (4) when the adjuster finds evidence indicating that there is no liability to the insured, (5) when the insured fails to render proof of

¹ See Appendix M.

loss, and (6) when the mortgage debt has been paid off but the policy has not been endorsed to show that losses are no longer payable to the mortgagee.

Dispute over Cancellation. The mortgagee clause provides, as do lines 68 to 73 of the New York Standard Policy, that ten days' written notice of cancellation must be given to any mortgagee named in the policy as a payee.

Under this requirement the adjuster who encounters a case of disputed cancellation must develop evidence not only as to cancellation so far as the insured is concerned, but also as to the cancellation of the mortgagee's interest.¹

When Mortgagee Objects to Adjustment. It is the general opinion of adjusters and loss men that, when adjuster and insured agree upon the amount of loss and proof of loss is filed within the time stipulated in the policy, the mortgagee is bound by the adjustment unless he can prove that there was fraud on the part of the insured or the adjuster, or that there was collusion or mutual mistake between them, and that, as a result, his rights are prejudicially affected.

If a mortgagee objects to the amount of loss agreed upon by the adjuster and the insured, the adjuster should call upon him to point out any fact or circumstance that, in his opinion, evidences fraud, collusion, or mutual mistake in the making of the agreement.

When Mortgagee Refuses to Accept Joint Payment. In some instances there will be no disagreement as to the amount that the insurer should pay, but the mortgagee will refuse to accept a check or draft drawn jointly to him and the insured and will demand independent payment. In such an instance, the adjuster must investigate the situation and develop evidence that will show how much the mortgagee is entitled to receive and how much the insured is entitled to receive. It is the general rule that a mortgagee is entitled to collect any money to be paid under a policy naming him as payee unless the amount to be paid exceeds the amount of the mortgage debt, in which case he is entitled to the amount of his debt and the insured is entitled to collect the remainder. The amount that the mortgagee may legally claim is, therefore, the lowest of the following: (1) the amount of loss or damage to the property, (2) the amount of the mortgage debt at the date of the loss, (3) the limit of

¹ See Cancellation, pp. 124-126.

liability under a policy containing an average, coinsurance, or contribution clause.

In some losses, generally those involving mortgages under which payments are in default, or which the mortgagee is anxious to have paid off, acrimonious conflict arises between insured and mortgagee, each being anxious to get possession of the money. The insured will want to use it to pay for the repairs necessary to make the property useful. The mortgagee will want to collect against the debt the insured owes him. In such losses the adjuster must establish the exact amount of the mortgage debt, doing what he can to get the insured and the mortgagee to agree on a figure. In extreme cases, examination of the mortgage and cancelled checks or receipts held by the insured may be necessary.

Liability to Mortgagee Only. When the adjuster finds evidence indicating that the insurer is liable to the mortgagee but not to the insured, he must promptly inform the insurer, who may elect to pay the mortgagee the amount of the damage to the property or the limit of liability under the policy and have him execute articles of subrogation and assignment,¹ or it may elect to pay the mortgagee the full amount of the mortgage debt and take an assignment of the mortgage.

Liability to Mortgagee Greater Than to Insured. In occasional losses property will be covered by policies, some payable to the mortgagee and others not. In such losses the mortgagee may be able to enforce payment to himself of the full amount of the loss under the policy or policies payable to him. But the existence of other insurance, not payable to him, may make the liability to the insured under the policies payable to the mortgagee less than the liability to the mortgagee. The difference will be due to the fact that the liability to the insured under each policy will be its prorata share of the loss, while the insurers under the policies payable to the mortgagee, if the mortgagee clauses do not contain a contribution provision (or, if they do, are large enough to comply with contribution requirements) may owe the mortgagee the full amount of the loss. But though they may owe him the full amount of the loss, they stipulate in the mortgagee clause that if they pay him

any sum for loss or damage . . . and shall claim that, as to the mortgagor or owner, no liability therefor exists, this Company shall, to the extent of such pay-

¹ See Appendix M.

ment, be thereupon legally subrogated to all rights of the party to whom such payment shall be made under all securities held as collateral to the mortgage debt. . . .

A technical working out of a situation in which two mortgagees are involved, each holding a policy payable to himself while the insured also holds one payable to himself, is illustrated by the following.

Assume that a building worth \$11,000 is destroyed by fire. The insurance under three separate policies is \$11,000 payable to the first mortgagee, \$4,000 payable to the second mortgagee, and \$5,000 payable to the insured. The first mortgage is \$11,000, the second, \$4,000. There are no contribution provisions in the mortgagee clauses.

If the two mortgagees should insist upon their rights, the working out of the situation would be as follows:

1. The first mortgagee would be paid \$11,000 by the company insuring him but would be required to assign to that company the mortgage he held, which would be reduced by the amount for which the policy was liable to the insured, *i.e.*, \$6,050, ($1\frac{1}{2}$ /₂₀ of \$11,000), leaving the mortgage debt at \$4,950.

2. The second mortgagee would be paid \$4,000 by the company insuring him but would be required to assign to that company the mortgage he held, which would be reduced by the amount for which the policy was liable to the insured, *i.e.*, \$2,200, ($\frac{4}{20}$ of \$11,000), leaving the mortgage debt at \$1,800.

3. The insured would be paid by the company insuring him $\frac{5}{20}$ of \$11,000, or \$2,750.

These figures are reached by a determination of the prorata liability under each policy and the amounts paid the mortgagees for which there is no liability to the insured. In order to show how the several figures are determined, there are set out below the steps which would be taken in making the adjustment and a statement showing that, under such an adjustment, the insured would be fully indemnified.

1. The prorata liability of the insurers:

	<i>Insurance</i>	<i>Liability</i>
Insurer of first mortgagee.	\$11,000	\$ 6,050
Insurer of second mortgagee.	4,000	2,200
Insured.	5,000	2,750
Totals.	\$20,000	\$11,000

2. Amount collected by first mortgagee for which there is no liability to the insured:

Amount collected	\$11,000
Prorata liability of policy	<u>6,050</u>
No liability to insured for	\$ 4,950

After payment the insurer of the first mortgagee takes over by assignment the first mortgage on the property, now reduced to \$4,950.

3. Amount collected by second mortgagee for which there is no liability to the insured:

Amount collected	\$4,000
Prorata liability of policy	<u>2,200</u>
No liability to insured for	\$1,800

After payment, the insurer of the second mortgagee holds the second mortgage on the property, now reduced to \$1,800.

The insured's position:

Has lost a building worth	\$11,000	
Has received from his insurer		\$ 2,750
Has had first mortgage reduced		6,050
Has had second mortgage reduced		<u>2,200</u>
Totals	\$11,000	\$11,000

The loss, however, might be settled by an agreement that each policy should pay its prorata part of \$11,000 and that all drafts should be drawn jointly to the order of the insured and both mortgagees. The total, amounting to \$11,000, thus paid might then go to the first mortgagee whose mortgage would be satisfied, the second mortgagee thereupon advancing to take his place. On the other hand, there might be an agreement that some of the money would be used toward reducing each of the mortgages and that the balance would be retained by the insured. In fact any division of the money might be made if the insured and the two mortgagees should agree upon it.

In view of the complications that would follow the exact enforcement of the rights of the two mortgagees and the insured, the adjuster should exert himself in losses presenting similar situations to bring about agreements that will permit prorata payments under all policies unless one or more of the policies has become void as to the insured.

When Insured Fails to Render Proof of Loss. When the insured does not press claim and fails to render proof of loss within the time stipulated in the policy, the adjuster should notify the mortgagee and ask whether he will negotiate an adjustment and render proof. Only in rare instances does the adjuster find it necessary to do so.

In New York and New Jersey, state statutes require the insurer to make written demand on the insured to render proof of loss if it intends to declare the claim forfeited because proof is not rendered within the stipulated 60 days after date of loss. In most states, particularly in the two mentioned, the adjuster should serve written notice on the insured to render proof of loss if a mortgagee is named in the policy and the insured is dilatory in presenting claim following a serious loss.

When Mortgage Has Been Paid Off. Occasionally a mortgage is paid off, and the insured fails to take possession of the policy and have it endorsed to show that it is no longer payable to the mortgagee. A loss occurs, and the failure comes to light.

In many cases the insurer will endorse the policy after the loss, or have the agent do so, and with the endorsement on record and a report from the adjuster stating that the mortgage has been satisfied, pay the loss to the insured. But the best procedure in such a situation is for the adjuster to get a clearly worded letter or signed statement from the mortgagee setting forth the mortgagee's declaration that the mortgage has been satisfied and that he no longer has an interest in the policy.

Other Named Payees. Sellers of personal property on the installment payment plan often require the purchaser to take out insurance in his own name and include in the policy or policies a clause making loss, if any, payable to the seller.

Banks, finance companies, and others who lend money to producers or traders in similar fashion require the owner or custodian to cover the merchandise by policies making loss, if any, payable to the lender. The clause used in either situation will generally be worded substantially as follows:

Loss, if any, under this policy shall be payable to John Doe, as interest may appear.

Under such a clause the payee does not have a separate contract with the insurer. His right is limited to the collection of any amount payable

under the policy to the insured, not in excess of the amount that the insured owes him.

Sometimes, as with mortgagees, disputes arise between the insured and the payee, making it necessary for the adjuster to establish the exact amount of the payee's interest.

Likewise, in some instances the debt to the payee has been paid and the loss-payable clause has not been eliminated from the policy. Procedure in such instances should be the same as that outlined in the preceding section dealing with mortgages that have been paid off.

Payees Designated but Not Named. In order to protect the interests of bankers or others who advance money to the buyers of commodities and whose transactions are too numerous to be followed through and covered by specific policies with loss-payable clauses naming the bank or person that advanced the money, there is used in policies covering some commodities, notably cotton and wheat, a form of loss-payable clause of which the following is an example:

Payments or advances, in case of loss or damage to cotton, shall be made to banks or other persons having made advances against such cotton as their interests may appear, or, at the option of this Company, to such banks or other persons and the Insured jointly, provided this Company receives written notice of such interest within ten days after such loss or damage.

When adjusting a loss under policies containing such a clause, the adjuster should determine by investigation what banks or persons have advanced money against the commodity and what amount each has advanced. Investigation generally begins with asking the insured for the information. No final action should be taken until the 10 days after loss have gone by.

Generally losses under policies containing this kind of loss-payable clause occur in warehouse or grain elevators that issue warehouse receipts to the owner against units or quantities of property as these are received. The owner sells to the buyer who takes over the warehouse receipt. The buyer then deposits the receipt with the bank as collateral for a loan with which to buy more of the commodity. A loss occurs in the warehouse. The buyer's funds invested may be only 20 per cent of the value of the commodity involved. The banks or others who have advanced him money with which to finance his business may be interested to the extent of 80 per cent.

When dealing with a commodity loss where several banks have made loans to a buyer, the adjuster can often arrange for one bank to take over from the others all warehouse receipts and agree to pay each bank the value of the commodity covered by the receipts taken over. The bank that takes over the receipts from the others then receives the insurer's check or draft payable to the insured and itself, gives the insurer a guaranty or hold-harmless agreement,¹ and surrenders the warehouse or elevator receipts to the insurer.

Holder of Equitable Lien. Following a loss, a person or institution not named in the policy may demand payment from the insurer because of an interest in the property or a debt due from the insured. In this case it is the adjuster's duty to develop the facts and report them.

While the law regards an insurance policy as a personal contract payable in case of loss only to the insured or the payee named in it, the courts apply the principle of the equitable lien to insurance policies as they do to other kinds of contracts and will, in some situations, decree payment to a third party.

If the owner of property who has promised his creditor to cover it by insurance for the creditor's benefit is found after a loss to hold a policy that does not name the creditor as a payee, the creditor may present this situation in an equity action, and the court will award him the insurance payment. The insurer must then pay him according to the amount of his lien.

The Supreme Court of the United States, in a decision rendered in 1879, which has been cited by many state courts as a leading authority, said:

It is undoubtedly the general rule that a mortgagee has no right to the benefit of a policy taken by the mortgagor, unless it is assigned to him. . . . But it is settled by many decisions in this country that if the mortgagor is bound by covenant or otherwise to insure the mortgaged premises for the better security of the mortgagee, the latter will have an equitable lien upon the money due on a policy taken out by the mortgagor to the extent of the mortgagee's interest in the property destroyed.²

Equitable liens most often arise in connection with mortgagee creditors. They are, however, encountered in connection with other creditors, as for

¹ See Appendix P.

² *Wheeler v. Ins. Co.*, S.C. U.S. (1879); 101 U.S. 439.

example, bankers who have lent money to merchants and have required them to promise to carry insurance to protect the loans.

The holder of an equitable lien is entitled to payment not exceeding the value of his interest. In reporting on a possible equitable lien, the adjuster must, therefore, do as he should in disputed mortgagee cases, that is, determine the amount claimed by the party holding the lien and try to get the insured to agree to the amount or point out wherein it is wrong. If possible, the adjuster should negotiate an agreement under which a check or draft payable jointly to the insured and lienholder will be accepted and endorsed by both. But, because an insistent lienholder may legally demand independent payment, it is essential that the adjuster put into the hands of the insurer information that will enable it to discharge its obligations to both insured and lienholder if independent payment is insisted upon. And because an insurer that has paid a loss is not immune from suit by a third party who may claim that the insurer had notice of his lien but ignored it and paid the loss to the insured, the adjuster should be diligent in following up any indication of third-party interest and in reporting it accurately to the insurer.

Assignees. If the insured assigns the claim after a loss, the assignee may take control of the adjustment, although he may not substitute himself if the insurer demands that the insured submit to examination under oath. Ordinarily, assignments of all or part of the claim are not made until after adjustment has been completed, and the proof executed by the insured. In dealing with an assignee whose assignment became effective before adjustment, the adjuster should see that the proof of loss is executed by the insured and that the assignee joins in the execution. The original assignment, or a certified copy, should accompany the final papers, and the reason for the assignment should be covered in the adjuster's report.

If the insured assigns a specific sum which is less than the amount due him under the adjustment, the adjuster is under no necessity of dealing with the assignee, because the amount exceeds his interest, but should transmit the original assignment, or a copy, to the insurer, covering the reasons for the assignment in his report. The insurer is liable to such an assignee.

Garnishees or Judgment Creditors. Between the time loss occurs and payment is made, the insured, the agent, or the adjuster may be served with a writ of garnishment or an attachment under which a person who is suing the insured, or who holds a judgment against him, is seeking to

satisfy his claim out of the proceeds of the insurance. The service of such a writ should not be allowed to halt or delay adjustment, but prompt advice should be given the insurer who may elect to employ an attorney to make answer, or, in some cases, to pay into the court any money that may be due the insured.

Sometimes it is possible to negotiate an agreement between the insured and the attorney representing the creditor under which the writ will be dismissed when the insurer delivers to the attorney a check or draft for the full amount of the loss, payable to the insured, the creditor, and the creditor's attorney jointly.

If two or more writs are issued, it is important that the date and time of the service of each be communicated to the insurer.

Buildings

The procedure followed in adjusting building losses is also followed when bridges, bulkheads, docks, fences, piers, platforms, ramps, sheds, stacks, tanks, tipples, trestles, wharves, and other structures, ordinarily real, as distinguished from personal property, are involved. Present-day building forms make the insurance cover not only the walls, floors, roof, and other structural parts of the building but also any devices, machinery, or fixtures built into it, as well as, occasionally, specified furnishings and supplies used in its service.

Description and Classification. Ordinarily a building is described by the number of its stories, the construction of its walls, and the covering of its roof. It is classified according to the purpose for which it is occupied. Wall construction is ordinarily frame, stucco, metal-clad, cement or cinder block, tile, stone, reinforced concrete, or brick. Occasionally adobe and coquina walls are encountered. Roof coverings are generally wood shingles, composition shingles or roofing, tar paper, tar and gravel, metal, tile, or slate. Superior buildings which are constructed of noninflammable materials are often described as *fire-resistive* or, inaccurately, as *fireproof*. Heavily built masonry buildings with thick walls, large-size timber floor supports, and other features that retard the spread of fire are described as *slow-burning*. *Mill construction* is a term used to describe slow-burning buildings that conform to certain prescribed standards. *Brick and joist*, or *ordinary brick*, are terms used to describe the kind of brick building most often encountered. The common occupancies are apartment, bank, barn, church, club, dwelling, factory, garage, hospital, mercantile, office, powerhouse, theater, and warehouse.

As Subjects of Insurance. Buildings are subjects of insurance from the time the first materials to be used in their construction are delivered to the premises until they are destroyed, abandoned, or demolished.

After the construction of a building has been planned, a loss may occur while only materials and equipment are on the site. At such a time, the insurance generally covers under a builder's-risk form.

When building operations have been completed, the structure is covered by insurance describing it as a building.

If extensive alterations and repairs are to be made, there is a return to builder's-risk conditions because of the material that may be brought into the premises.

While a building is being demolished, it is only occasionally covered by insurance.

Effect of Perils Commonly Insured Against. Buildings are destroyed or damaged by various perils, commonly insured against as fire, lightning, windstorm, hail, explosion, aircraft, vehicles, smoke, sprinkler leakage, water, flood, tidal wave, wave wash, and earthquake.

Fire. Fire may consume a building or create enough heat in consuming its combustible material to destroy the value of its noncombustible material. Fire is seldom checked if it gains real headway in an unprotected frame building and ordinarily destroys it. If the foundations are principally above ground, they are generally so badly damaged by heat that they must be torn down and reconstructed if the building is to be rebuilt. Chimneys often require rebuilding.

Brick buildings not under fire protection may suffer destruction if the boards and timbers of the floors and the roofs generate sufficient heat when burning to disintegrate the mortar in the walls. In such cases the walls usually fall, leaving on the site of the building a mass of broken brickwork which has to be cleared away before rebuilding operations can be commenced.

Even in protected areas, both frame and brick buildings may be destroyed, though such results are unusual. A conflagration will level entire blocks of brick buildings as well as devastate areas built over with frame construction. In such disasters only the best types of fire-resistive buildings escape destruction.

The wooden parts of ordinary brick buildings may be seriously injured by the burning of combustible contents. Under sufficient heat such noncombustible materials as brick, stone, or concrete will crack. Metal parts will soften and, in severe fires, melt. The softening of metal beams or columns is often followed by displacement of parts of the structure resting

on them. To shore up a floor that has settled and cut out and replace bent or twisted metal girders or beams are expensive operations. Heat from the burning of an adjacent building will crack glass in windows or doors. Water used to extinguish fire injures inside woodwork and, unless drained off or wiped up promptly, may cause floors or trim to crack or buckle. Water also loosens plaster and wallpaper, discolors paint or decorations, and causes other damage. If a large quantity of water is used to extinguish fire in a building filled with closely packed contents that, like sisal, rolls of paper, or bulk cottonseed, will absorb the water and swell, the swelling of the contents may force outward or even break open the walls of the building. Debris or heavy articles from upper floors may be precipitated by the burning of supporting columns, girders, or joists and cause serious wreckage in the lower parts of the structure. Falling walls sometimes crush or damage other structures.

If the roof has been opened or the windows broken, a building may suffer further damage, after a fire has been extinguished, owing to the freezing and bursting of water pipes, tanks, or plumbing. Rain entering through holes in the roof or through broken windows may do serious injury to plaster, inside woodwork, and finish.

Fires that originate in brick or frame buildings in protected areas are usually extinguished by the fire-fighting forces, but the structures are left in a damaged condition and require repairs of varying extent and costliness.

Lightning. Lightning striking a building may set it on fire or damage it by shattering boards, timbers, brick, stone, terra cotta, or tile. It rarely injures any metal part of high conductivity.

Windstorm. Tornadoes subject buildings to wind pressure, or by enveloping a structure, subject it to the expansive force of the air inside. Hurricanes and lesser windstorms exert direct wind pressure.

Total losses due to windstorm occur when buildings are blown away or blown apart. Partial losses are far more numerous and range from overturn or serious breakage and straining to minor roof damages. Rain during a windstorm or following it adds water damage.

Hail. Hailstones break windows, puncture or dent roofs and gutters, and cause damage to any other parts of a building that is vulnerable to their pelting. On a flat roof they may also pile up a weight that it cannot carry. They often open the way for ensuing damage by rain.

Explosion. Explosion may demolish a building or damage it by shattering or cracking it or by blowing out parts or sections. It may open the way to weather damage.

Aircraft. Falling aircraft, or aircraft off course, may destroy a small structure or damage the roof or walls of a large one. Objects falling from aircraft or oil or gas spilled from them produce damage in lesser degree.

Vehicles. Damage done by vehicles includes the total destruction of small structures, smashed doors and windows, and damaged walls and doorframes.

Smoke. Smoke from permanently placed heating and cooking devices, developed by sudden and faulty operation, as when an oil burner under a steam or hot-water boiler does not get a proper blast of air, smuts, smudges, or covers with a black and greasy film the surfaces of walls, ceilings, and other parts of a building.

Sprinkler Leakage and Water. Water from sprinkler systems or other sources wets floors, ceilings, and walls, swells or cracks woodwork, weakens plaster, stains paint or wallpaper, and rusts metal ceilings.

Flood, Tidal Wave, Wave Wash. Flood, tidal wave, and wave wash do a variety of damage. In many cases the contents of sewers back up and discharge through drains, toilet fixtures, and sinks into basements. In some floods the water level is high enough to fill the first story of a building. In great floods, many light buildings are floated off their foundations, and some heavy buildings are undermined and caused to collapse. Receding flood waters leave inundated buildings filled with mud and filth.

Tidal wave and wave wash generally fill basements and lower stories with water, often break in windows and doors, sometimes wrench off porches, and, if severe, displace buildings from their foundations or even beat them to pieces and wash them away.

Earthquake. Earthquakes crack, strain, tilt, break apart, and at times demolish buildings. They open structures to the weather and by breaking water pipes cause water damage. They also start fires by causing parts of a building to fall and lodge against fireplaces, stoves, or furnaces, or by breaking or cracking chimneys and allowing flames or sparks to reach combustible materials.

Value and Loss. Buildings that are worth replacing are valued according to the cost of replacement. If a building is not wholly out of date and is suitable for the use made of it, or other uses, its value is usually measured by first determining the cost of rebuilding, and deducting therefrom what-

ever depreciation has occurred because of age, use, exposure to the elements, or other deteriorating influences, or because of obsolescence.

If a building is damaged but not destroyed, the loss sustained by the owner is ordinarily measured by the cost of restoring it to the condition existing before the loss occurred. If necessary repairs are not extensive and do not involve the replacement of entire units, such as a roof, it is not customary to make any deduction from the cost of repairs for depreciation. If, however, repairs are so extensive that a substantial portion of the structure will be renewed, depreciation should be deducted, or allowance taken for betterment, as otherwise the owner, on the completion of the repairs, will be in possession of property more valuable than it was before the loss. Occasionally the question of depreciation is equitably settled by an agreement that the owner will make no claim on damaged parts that were in poor condition before the loss but will be allowed full cost of repair or restoration on the parts that were in good or fair condition.

In some instances damage to a part of the building will be of such a nature as to make restoration of the part inadvisable. In such instances the loss will be measured by an amount agreed upon as representing a fair allowance for the shortened life, impaired usefulness, or changed appearance of the part affected. A common instance is the buckling or roughening of a wood floor that has been water-soaked. If the floor can be planed or scraped until smooth, the cost of the work plus an allowance for the shortened life of the floor due to its reduced thickness will be a fair measure of the loss.

Procedure of Determining Value and Loss. If a building has been totally destroyed, the adjuster's first efforts are usually directed toward determining the probable cost of reconstruction. If the building was new, it may be possible to locate the original records covering the cost of construction, and from them eliminate any items that are not insured. The cost of excavating the site is such an item. Inquiry can then be made into the cost of reconstruction; whether it will be greater or less than the actual cost of the original construction. If a complete record of the cost is not to be had, it is possible that the plans and specifications can be obtained from the architect or builder, and the cost of reconstruction accurately estimated.

In making an estimate, the separate cost of the various items making up the structure should be computed—foundations, carpentry, plaster, millwork, glass, roof, paint, plumbing, lighting, and heating.

In unusual structures there will be other items such as sprinkler systems, elevators, air-conditioning systems, power plants, and a variety of mechanisms.

Estimates generally show some general items such as contractor's profit and, on expensive structures, an architect's fee. Compensation and liability insurance and contractor's overhead are other general items that, under certain circumstances, are proper elements of cost.

If the building was old, it is rarely possible for the adjuster to locate the original plans and specifications. In such a case it may be necessary for him or his builder to make sketches based on measurements of the foundations and other remaining portions of the structure and an examination of the materials. To supplement measurements and examinations, the owner or occupant should be called upon to describe the construction, and the description that he gives should be checked against the remains of the structure and possibly against the debris for confirmation.

When the cost of reconstruction has been established and agreed upon, depreciation is next to be considered. A number of tables have been compiled in which the average yearly rate of depreciation of the various parts of a building are given, but while these tables are valuable guides, they do not necessarily determine the depreciation of any particular structure. These tables are based on the effects of age, whereas in a particular building the degree of care and upkeep will tend to cause its depreciation to vary from an average annual rate. For example, a building that is occupied and regularly painted and cleaned depreciates much more slowly than one on which the paint is neglected and which is allowed to accumulate dust and dirt, or which is unoccupied.

If a building has been damaged, the extent of necessary repairs and the cost of making them must be determined. In order to make repairs, it is generally necessary to tear out the material that has been damaged and replace it with new. In case of slight damage, it may be necessary only to clean, refinish, or repaint.

Woodwork that has been seriously burned or broken must be renewed. If slightly scorched or otherwise marred, it may sometimes be made serviceable by scraping and repainting, or other refinishing. Beams or other heavy timbers that have been scorched or charred, but not weakened, can sometimes be scraped and painted, or boxed to the satisfaction of the owner. Plaster that has had the key broken, or that has fallen, must

be replaced. Brickwork is sometimes cracked or spalled. If so, the bricks must be cut out and relaid, or the surface covered with cement. Slight damage to brickwork may necessitate only cleaning and pointing. Paint or other surface coatings or decorations must generally be completely renewed, though they can sometimes be satisfactorily washed or cleaned.

Damaged steel members that have sagged or warped are sometimes removed after the heads of the rivets holding them in place have been cut away with chisels or burned off with gas or electric torches. The members are then straightened in power presses or under steam hammers, after which they are returned to their places and again riveted into the structure.

In fire-resistive buildings serious damage sometimes occurs because wooden cabinets or cupboards have been built adjacent to fixtures or mechanisms, such as elevator machinery, motors, or panel boards which are highly susceptible to damage, or because combustible material has been used in the construction of shafts carrying pipes or wiring.

Damage to docks or piers may require piling to be drawn and redriven, an expensive operation, or to be capped if that method of repair will restore the strength of the structure.

The items which ordinarily enter into the cost of repairing are material, labor, builder's profit, removing debris from the premises, and, in some cases, an architect's fee. An architect's fee is not a proper item to be considered unless the work of repairing is so extensive or of such a nature that the owner would ordinarily employ an architect to supervise it. On large building losses, such items as liability insurance and superintendence are often taken into consideration.

The adjustment of a partial loss on a building is generally more difficult than the adjustment of a total loss, as there is room for disagreement over both the extent of the repairs and the cost of making them. While extent and cost are usually left to the judgment of builders, there are some adjusters who on ordinary building losses have the experience and ability necessary to prepare specifications and estimate with accuracy the cost of work.

Occasionally a partial loss is adjusted by having the repairs made and keeping a record of the total expenditure which, less proper depreciation, is accepted as the amount of loss. In such cases the insured has the work done, and the bills are checked by the adjuster.

The company's option to repair is very seldom exercised.

After a serious fire, the lower stories of a building are often filled with an accumulation of debris from the roof or upper stories, which may make it impossible to determine the real condition of the building. In such a case, it is well for the adjuster to negotiate an agreement under which the insured will have the debris removed before the estimate of the damage is prepared. The removal should be subject to the supervision of the adjuster or some competent person in his employ. Care must be taken not to dispose of any debris that is the only remaining evidence of the design or material of a part of the structure before it has been examined by the persons who are to estimate the loss. If there are no plans or specifications to be had, all data on which the estimate is to be based must be taken from measurements and observations of what is left of the building.

The cost of removing the debris should be recorded and later made a part of the claim. If the cost of repairs and the cost of removing debris do not together exceed the sound value of the building, or the amount of the policy, the full cost of removing debris is collectible, subject, however, to contribution.

Some building policies contain special debris-removal clauses, assuming cost of removing debris. As these clauses are new and no practice has been established in connection with them, no attempt will be made to discuss their operation.

Losses Involving Lessees. A lessee may install betterments and improvements in order to make a building more suitable for his occupancy. He may cover them with insurance or he may insure his leasehold interest. If loss occurs on betterments and improvements covered as such, their value and the loss on them are ordinarily estimated as on any other parts of the building. If the lessee, however, holds only leasehold insurance, his loss should be determined as outlined in the next chapter.¹

A lessee may assume the obligation to rebuild the building if it should be destroyed. If he then covers it with building insurance, he will be treated, in case of loss, as if he were the owner. If, however, he insures his liability under the lease, no deduction can be made for depreciation, as the insurance will cover his obligation to restore.

An owner may enter into a lease in which he gives the lessee an option to purchase the property at a stated price. If he does, his insurer is under no greater obligation to him in case of loss than to pay him the amount for

¹ See pp. 283, 286, 288.

which he would have sold the property. By his own act, he has fixed its value.

Estimating. Many pages of the old manuals or handbooks dealing with adjustments consist of tables and other data designed to aid the studious adjuster in learning how to estimate building losses.

There are several methods used to approximate the value of a building. The *cubic-content* method is the best of these. The adjuster will find on inquiry that buildings of like construction in a given locality will show a fairly uniform cubic-foot cost. The cubic content of a building with rectangular floors and walls and a flat roof can easily be determined. But this is not the case with such irregular structures as dwellings of rambling construction with peaked roofs, or churches with towers and steeples. For this reason an adjuster should not, in case of a total loss, rely on an estimate made by the cubic-content method, unless the margin between insurance and value is sufficient to allow for moderate error.

Another means of valuation is the *floor-area* method. This is less accurate than the cubic-content method but, in connection with certain kinds of structures, is fairly reliable.

The *room value* is sometimes used to calculate the value of a building where the adjuster is satisfied that the loss is hopelessly total.

An adjustment based on a cubic-content valuation should be supported by a statement giving the measurements of the building, the number of cubic feet, and the cubic-foot cost. A floor-area valuation should state the measurements, the area, and the square-foot cost. A valuation by the number of rooms should give the measurement of the building, the number of stories, the number of rooms, and the room cost.

Detailed estimates, covering all units of material and labor, are the only trustworthy guides for an adjuster and should be made or obtained unless the loss materially exceeds the amount of the insurance and there is no problem of coinsurance or average involved.

There are a number of books from which a student can learn the principles of estimating the quantities of material in a building and the hours of labor necessary to work it into the structure. By combining study with observation of builders making estimates, the novice will soon develop the ability to estimate losses of moderate extent. The adjuster whose work is principally in the smaller towns and in the country should estimate most of the building losses he handles. Only when the amount involved is large,

or the work of reconstruction complicated, should he employ a builder.

In country districts, the ordinary farmer is competent to make repairs to any of his buildings and to estimate what repairs should cost. He is familiar with the various building materials and is accustomed to the use of tools. He can determine by measurements the quantity of material needed and knows by experience the length of time required for an ordinary job. The adjuster who spends enough time handling country losses to become familiar with them should acquire the information necessary to estimate them accurately. The simplest building construction is the rule in rural sections. This makes the problem of estimating easy.

The adjuster handling country losses will be free from interruption while at work, a condition which will enable him to give a degree of attention to his estimating seldom possible in the hurry of city work. The rural claimant will frequently sit down with the adjuster and, item by item, figure the cost of making repairs or of rebuilding. An adjustment made by this method is usually accurate and satisfactory. The report of an adjuster who has made such an adjustment should embrace a detailed statement showing the separate items of repair, or reconstruction, and the estimated cost of each. A report submitted in this form will enable the insurer to check the adjuster's figures and compare the prices allowed for material and labor with the prices allowed for similar items in other claims in the same territory. The statement will show that the loss was estimated by considering separately each item of repair or reconstruction cost. Such attention to detail will produce more accurate estimates than lump-sum guesswork.

The adjuster who learns to make his own estimates will generally develop a routine to suit the work. As an estimate should reflect the condition of the property, it should not be prepared until a survey of all damage has been made. If the adjuster has a comprehensive idea of the loss before he commences to make a list of individual items of repair, it will in many cases shorten his work. It is generally best to make accurate measurements and notes which can later be developed into sketches. After collecting the necessary data, the adjuster will be in position to compute the quantities of the different materials needed.

When the necessary quantities have been determined, the prices being paid in the locality should be applied. The prices should be those which prevailed immediately after the fire and which ordinarily would be

charged for material delivered to the job. These prices should be obtained from reliable sources so that the adjuster will feel safe in presenting them at the time he makes an offer of settlement.

After quantities and prices of materials have been determined, the labor cost should be established. This cost should exclude any consideration of overtime charges as these are not proper except on repairs made to prevent further damage to the property. Wages will vary in different communities but will generally be approximately the same throughout a given region.

If there are unusual conditions, they must be given consideration. For instance, a charge is generally added to the cost of setting plate glass in order to cover the risk of breakage; after a conflagration there will generally be a rise in the prices of materials due to the sudden demand on the market.

In the larger cities, the varieties of construction and decoration are so great that an adjuster handling the general run of city losses can never acquire sufficient information to be a competent estimator on all kinds of buildings. It is, therefore, necessary to use builders on city losses to an extent not warranted in towns and villages.

Depreciation. Buildings depreciate as the materials used in their construction deteriorate with the passing of time, or as new and more desirable types make older types obsolescent. Deterioration commences almost immediately after the erection of a building. Obsolescence is generally delayed. Depreciation is a negligible factor in losses involving new buildings, but a factor of great importance if old structures are involved. In such structures both deterioration and obsolescence have been at work.

The causes of deterioration in building materials are decay, corrosion, metal fatigue, chemical change, and wear and tear. These causes are productive of results in inverse proportion to the resistance of the materials to deterioration and the effectiveness of protective measures used to retard its action. The resistance that a material ordinarily offers to a given deteriorating cause is primarily determined by the inherent quality of the material. This resistance can be made most effective if the pieces of material used are free from faults or inferiorities, are so placed in the building as to be protected from excessive exposure to the deteriorating influence, and are thereafter cared for. A consideration of specific materials and the causes of their deterioration will illustrate this point.

Wood is the most common material. It is a vegetable product subject to

decay due to microorganisms that require darkness and moisture for their existence. The resistance that wood offers to decay will, therefore, be determined by conditions of moisture and sunlight. Moisture is absorbed more freely by porous than by close-grained wood. For this reason, boards or timbers exposed to dampness should be made of close-grained wood. They should be free from incipient decay or inferior streaks in which moisture will accumulate. Sills and floor joists in proximity to the ground are exposed to the moisture emanating from it and tend to decay. Usually they are always in darkness, a condition that makes decay more rapid. In the warmer sections of the country, many buildings are constructed without basements, the sills and first-floor joists being frequently only a few feet above the earth. In the South, pine is the wood most frequently used in building, and pine sills and joists are the rule. Since the heart of the pine tree is closer grained than the outer section, known as the sap, the best floor timbers in Southern buildings are made of heart pine. Timbers that are part sap are inferior, as decay starts quickly in the porous sap unless the timbers are kept dry. To ensure dryness in the space between the ground and the floor timbers, the foundation walls are pierced with openings through which air can circulate. Floor timbers properly selected and protected from prolonged dampness by this method of airing decay slowly.

Another form of deterioration in wood often occurs if boards are exposed to the direct rays of the sun before they have been properly seasoned. In such cases the boards will generally warp, and in doing so crack.

The decay of woodwork under the action of moisture is to some degree paralleled by the damage to iron- and steelwork when attacked by rust. Iron resists the attack if it is free from impurities, but structural steel rusts easily. As rust will start quickly when moisture is present, it is essential that ordinary ironwork or steelwork be protected by a grade of paint that will prevent rain or even the air from coming in contact with the metal. Moisture is always present in the air in varying degrees, according to weather conditions, and, because of this, even interior steelwork or ironwork will tend to rust if not protected or frequently wiped or polished.

The rusting of steelwork or ironwork is only one of the processes of metallic decomposition that must be combated by builders and caretakers of buildings. Metallic parts exposed to the action of corrosive agents, such as acids and alkalies, are gradually eaten away. These agents may be

present in liquids that corrode plumbing or tanks, or they may be in gaseous form. The gas given off by burning bituminous coal is the most common of the corrosive gases. This gas, present in the smoke from chimneys and furnaces, is particularly injurious to iron and steel and to galvanized sheets or wires.

The three causes of deterioration so far considered produce their results by working a visible decomposition of the material on which they operate. Shock is another cause of deterioration in metal, but it operates without giving any visible evidence of its effect until a fracture occurs. Shock causes metal fatigue, often termed crystallization. Fatigued metal gives no evidence of its condition until it breaks under a stress that the metal would have resisted before crystallization occurred. Rails, trestle members, bridge parts, and other steelwork subject to repeated stress and shock tend to crystallize and finally fail.

Deterioration of building materials may also result from the wear and tear of the elements, or from the use made of the building. The elements are always exerting a deteriorating influence on exposed material. Sunlight, rain, and changes of temperature deteriorate the materials they reach, while wind works injury by shaking or swaying a building. The chemical action of the sun's rays, particularly in the southern sections of the country, gradually deteriorates paint, while the direct heat of the sun exerts an unfavorable influence on shingles and certain other kinds of roofing by drying out protecting gums or oils. Rain finds its way through cracks and furnishes the moisture necessary to start decay or is absorbed by porous stone or brickwork. If freezing weather follows, the stone or brickwork will suffer, as the freezing of the absorbed moisture will enlarge cracks in the masonry and, at times, cause pieces to break off and fall. Frequent repetition of this kind of injury may badly disfigure the materials. Properly made brick suffers very little from the action of rain and cold, but porous mortar or the softer and more porous stones will in time show serious damage. Rain also rusts metal cornices, gutters, and downspouts, unless they are made of copper or lead. In addition to the damage done by sun, rain, and cold, heavy winds will occasionally sway a poorly braced building until the plaster is cracked, while severe wind stress may permanently strain a building.

Deterioration due to wear and tear of the elements is often accompanied by deterioration due to the use to which a building is put. If heavy loads

are constantly trucked over floors, they will become badly worn and require frequent repair or replacement. If the floors are not properly supported or if the building is not braced, vibration from the operation of machinery may dislodge plaster or even piping or other equipment attached to walls and ceilings. If water is frequently used in the building and is splashed on wooden floors or leaks through them, not only will the floors suffer, but plaster or paint on the walls or ceilings below will be injured.

Interior paint, wallpaper, and other decorations lose their freshness and deteriorate in time. The rate of deterioration will be accelerated by smoke or dust and, in unscreened houses, by fly specks.

The adjuster, seeking to inform himself on the deterioration of building materials, should study some of the numerous tables that analyze the normal depreciation of a building by showing the expected life of each component part. He should also take occasion to note the condition of the buildings with which he deals and learn to look for the particular kind of depreciation ordinarily severe in a given type of structure. For instance, wood shingle roofs on buildings in hot climates suffer severe depreciation.

The adjuster should also learn to look for signs of the care and attention that will retard the progress of deterioration. Thus, exposed woodwork is preserved by regular painting, as is also the surface of iron and steelwork. Plaster and interior finishing will long remain sound in a building that is weathertight but will deteriorate badly if leaks in the roof go unrepaired.

There are some parts of a building, however, that no amount of care will prevent from deteriorating much more rapidly than the other parts. Plumbing and heating systems are probably the best examples. Ordinarily these corrode and fail and must be renewed before the rest of the building shows appreciable wear.

Book Depreciation. If a building owner maintains books of account in which he enters charges for depreciation against his separate buildings, the adjuster should familiarize himself with the owner's method of determining the charges before accepting them as correct. Such charges do not always represent the actual depreciation of the property. Particularly if the charges are based on an arbitrary writing down of value, they may be greater, or less, than the actual depreciation. The accounting method of writing off the value of property over a period of years, known as "amortization," is not to be confused with true depreciation.

Obsolescence. Leaving the subject of deterioration and taking up that of obsolescence, it is important to note that changes have taken place with great rapidity in our methods of building. Not only has there been a change in exterior lines in the past 25 years, but the arrangement of interiors has so changed that present-day structures are far more desirable than older ones.

The discussion of value and loss in the immediately preceding section deals with the ordinary useful structure that the owner would normally rebuild if it were destroyed. There are, however, many buildings that would not be rebuilt because they have become obsolete as the result of changes in building design or construction, or because the occupancy for which they were designed has ceased to be in demand or to be profitable. As an instance, the mansion type of dwelling, designed for a period when servants and fuel were cheap, is too expensive for the income-tax-burdened family of today and is, therefore, difficult to sell or to rent. If such a dwelling burns, it is rarely rebuilt. To rebuild it with all its ornate woodwork and expensive joining, and to reproduce its spacious halls and rooms, would entail an expenditure far beyond what it would cost to erect a modern dwelling much better suited to average needs and much cheaper to heat and care for. Consequently, the total loss of an out-of-date mansion-type dwelling does not necessarily burden the owner with a financial loss equal to the reconstruction cost, less physical deterioration. There are some cases where the land on which such a dwelling stands would be more valuable without the dwelling than with it. Adjustments involving such dwellings are matters of trade and compromise, as no method of valuation can be devised to work justice in all cases.

Of similar nature are total losses on structures of any industry that can no longer operate profitably.¹ The march of progress has left behind many buildings that cannot be adapted to changed manufacturing needs or other present requirements. Entire industries have become unprofitable because of changes in methods or in the habits of people. Buggy factories have become curiosities. In many towns the picture theaters have closed the old theaters and opera houses.

Partial losses in obsolete structures, particularly when the policies contain average or coinsurance clauses, are difficult to adjust. Claim will generally be made for cost of repairs, and value will be stated as the price

¹ See *McAnarney v. Newark Fire Ins. Co.*, 159 N.E. 902, 70 Ins. L. J. 760 (N.Y. Ct. of Appeals, 1928).

for which the property could be sold, less the selling value of the land. As a result, a 25 per cent physical damage to the building may result in a claim for 100 per cent of the insurance. Compromises are generally in order. Formal appraisals are risky.

Demolition of Building. The owner of a building which is to be demolished ordinarily has in expectation no greater return from the structure than the profit from the rent to be collected during the remainder of its life, plus the salvage value of the building material. It would, therefore, seem that if a building burns after it has been definitely decided to demolish it, the owner's loss should not exceed the return he had expected. In the few cases passed on by the various appellate courts, this theory of expected return has not received judicial favor. Possibly the courts eventually will adopt it, now that the New York Court of Appeals has departed from the former judicial theory of valuation of obsolete structures.

If a building is sold to wreckers who receive no title to the land, the building becomes personal property, as the sale effects a severance of the building from the realty. If a loss occurs under this condition, the net salvage value of the building after wrecking costs is the measure of the wrecker's loss.

Special Forms Affecting Building Losses. The adjustment of building losses is, in some instances, affected by special forms that amplify the coverage.

In Massachusetts, particularly in Boston, many policies include coverage of demolition and increased cost of reconstruction.

In New York City some policies on structures cover on the basis of cost to replace instead of actual cash value. Many of the piers are so covered, as the lessee of a city-owned pier is obligated to replace it if it is destroyed during the term of the lease. Replacement cost insurance is also being written in some other territories.

No attempt will be made to discuss the peculiarities of losses occurring under these forms. Adjustments follow the principles that govern ordinary losses, but vary in detail. The adjuster must follow the special provisions of the form in each case.

Procedure in Building Losses. Procedure in building losses may include any of the following steps: (1) getting the insured's story, (2) identifying the property and checking the coverage, (3) establishing interests, (4) examining the property for indications of cause of loss or extent of

damage, (5) safety measures, (6) protection from further damage, (7) estimating the situation, (8) choosing a method of adjustment, (9) preparing for the adjustment, (10) negotiating the adjustment, (11) appraisal, (12) final papers.

The usual loss requires only 1, 2, 4, 10, and 12.

The Insured's Story. In the ordinary building loss, the insured's story requires no development beyond stating date, hour, and cause of loss, extent of damage, plan and probable cost of repair. The housewife on whom the adjuster will call after a reported loss to a dwelling may say that on the previous Monday at about 11:00 A.M., a towel left too close to the range in the kitchen caught fire, spread to paper intended for wrapping garbage and to the window curtains, which in burning cracked the glass in the window and smoked up the walls and ceiling so that repainting will be necessary. The local contractor has looked over the damage and will make all repairs for \$90.

The owner of a mercantile building may say to the adjuster that the building next door burned, the heat cracked the glass in the windows on the fire side of his building and scorched the frames. He had the glass put in at once, because of the weather. His costs to date, and what he will have to pay for repainting the window frames, will be \$238.

The owner of a dwelling may say that last week's storm blew most of the shingles off the west side of his roof. The rain came in and wet the ceilings and walls of the west bedrooms. He has an estimate from his builder of \$525 to make all repairs.

In the preceding instances, the adjuster needs no more information before going on to the next step in the adjustment.

In extensive damages, the insured should be led to state his ideas of what parts of the structure have been damaged, what reconstruction or repair he or his advisers think will be necessary, and when, how, and by whom he plans to have repairs made.

In total destruction, the insured should be asked for a general description of the building, its size, design, and quality of workmanship, its age, history, and condition; also, what architect designed it, who built it, and whether any plans of it are available.

Identification and Check of Coverage. At the time of his first inspection, the adjuster should identify the building as property covered by the insurance and, after doing so, should establish according to the description

and any limitations in the insurance and according to property lines and ownerships, to what extent the structure is covered.

In the great majority of losses, identification is easy. The agent or broker accompanies the adjuster when he goes to the property, or directs him to it, and the building will be found at the location stated in the policy or policies. In a few losses, however, particularly when one of two or more buildings of the same ownership is involved and when the description and location given in the insurance will fit any of them, an investigation as to the identity of the damaged or destroyed building will be necessary.

In most losses the insurance covers all of the building. The ordinary dwelling, garage, barn, store, school, church, or factory is rarely built, located, or insured in such a manner as to exclude any part of it from coverage. But in some instances, one of the walls of a building will be a party wall and will be covered only to the extent of the insured's interest in it, usually one-half. In cases occasionally encountered in congested city areas, a building will cover two lots of land separately owned, one lot belonging to one owner, the other to the other owner. If the owners carry separate insurance, the insurance of each will cover only his part of the structure. Sometimes two buildings of the same ownership and separately insured are connected by a passageway. Ordinarily the insurance on each building is treated as covering the adjoining half of the passageway.

In leased buildings there are, in many cases, numerous fixtures and substantial improvements made by the lessees and covered by their own insurance.

Establishing Interests. In owner-occupied buildings, the existing interests are, ordinarily, only those of the insured and a mortgagee. The existence of a mortgagee interest does not require any special action. The notation in the adjuster's record that a mortgage for so many dollars is held by a certain person is, in most losses, all that is necessary. The mortgagee's interest extends to the entire building and does not require any segregation.

In buildings held under lease, the lessee may have installed improvements and betterments and may hold insurance covering them. If such is the case, the adjuster should isolate them and try to work out an adjustment in which the owner's insurance will pay for the loss on the structure as it was given into the lessee's possession and the lessee's insurance will pay the loss on the betterments and improvements that he installed.

Improvements are generally such things as store fronts, show windows, partitions, floors, ceilings, panels, and decorations. They may be, however, alterations of the walls or roof of a structure.

The most extensive improvement occurs when the lessee agrees in the lease to take over a parcel of land, erect a building on it, and at the end of the lease period, surrender possession to the owner. When such is the situation, the lessee is commonly obligated by the lease to rebuild the building if it is destroyed and, therefore, has an insurable interest in it equal to the cost of replacing it.

In some leases, the lessee is given an option to buy the property during the term of the lease for a stipulated sum.

It is incumbent on the adjuster to examine leases, particularly unusual ones, when there is a large loss on a leased structure.

Examination. The adjuster should make an examination of the building and note indications of the cause of loss, the character and extent of the loss it has suffered, and what parts of it have escaped damage. In the smaller fire losses, which aggregate in number about 80 per cent of all fire losses, examination requires little time or effort. If there has been a small fire in the kitchen of a dwelling, it will take only a few minutes to look the room over and note that some of the floor and part of the baseboard have been burned, the glass in a window has been broken, and the walls, ceiling, doors, trim, and built-in cabinets have been smoked. Measurements can easily be made, and a list of the necessary carpenter work, glazing, painting, and cleaning written up. In similar fashion, examination in case of a small shingle-roof fire can be made from the ground by counting the rows of shingles needing replacement and the number of shingles in each row. If the owner says there is no damage inside the house, examination need go no further.

In many total losses, little of the building will be left for examination. When an unprotected frame building, such as a farm dwelling or barn, has been destroyed by fire, the only parts left for examination will be the foundations and, in some cases, the chimneys. Measurements of the foundations will determine the ground area covered by the building, and the height of any standing chimneys can be closely approximated by counting the courses of the bricks, which will indicate the height of the building.

In large and complex losses, when most of the structure has been left

standing, proper examination will require much time and, in some cases, considerable effort. In case of severe damage to large structures where dangerous conditions exist, or access to sections or floors is barred by collapse or large quantities of debris, or where basements are filled with water, it may be necessary to make a preliminary examination followed by several others as wrecking or pumping out operations proceed.

No unvarying plan of examination can be offered, but the following outline will cover practically all kinds of losses.

1. Character and extent of damage

- a.* Sections, stories, parts, or rooms (if a fire loss) burned out, charred, scorched, or smoked; (if loss by other peril) destroyed, or how damaged
- b.* Sections, stories, parts, or rooms intact but damaged by water
- c.* Roof destroyed, open in spots, skylights broken, intact
- d.* Basement flooded, wet, clear
- e.* Elevators and other mechanical equipment operating, out of service; heat, light, power available or not available; plumbing broken, intact
- f.* Sections, stories, parts, or rooms undamaged

2. Unsafe conditions

- a.* Walls, roof, chimneys
- b.* Floors
- c.* Supports
- d.* Tanks
- e.* Heavy or swelling contents

3. Possibility of further damage

- a.* Openings in roof, walls, outside doors, or windows
- b.* Wet floors or finish work
- c.* Plumbing flowing
- d.* Boilers, tanks, pipes, or containers exposed to freezing
- e.* Clogged drains
- f.* Lack of heat
- g.* Dangerous contents

4. Possibility of making estimate of loss

- a.* Can all damage be seen or must debris be removed, basement pumped out, or exploratory operations made?

- b.* Should lights be restored?
 - c.* Should any debris be preserved for estimating data?
- 5. Specifications for repair
 - a.* Is damage such that definite specifications for repairs can be made?
 - b.* Does all damage require repair or replacement, or does some justify only allowance for impairment?
 - c.* What contingencies must be noted?
- 6. Damages not part of claim against insurer
 - a.* Due to peril not insured against
 - b.* Previous damages not repaired
 - c.* Tenants' fixtures, betterments, and improvements
- 7. Depreciation
 - a.* Decay, rust, deterioration, wear, and tear
 - b.* Obsolescent design or material

Safety Measures. In some cases buildings that have been damaged by fire, windstorm, explosion, or other peril are unsafe for occupancy or even entry and may menace adjoining property or street traffic. In such instances the municipal authorities generally order the owner to take down or make safe dangerously weakened walls, floors, or other parts of the structure. The adjuster handling a loss of this kind should familiarize himself with the situation, get the advice of a builder or engineer if necessary, and do what he can to see that the owner has the work of wrecking or shoring done properly and economically. The adjuster must avoid any action that might be construed as an assumption of this obligation by the insurer. But the cost of whatever wrecking or shoring is necessary to the proper repair of the building is part of the insurance loss and is subject to contribution. If by wrecking or shoring, valuable contents are saved, the adjuster should see to it that the owners of the contents or their insurers bear a proper part of the cost.

Protection from Further Damage. The adjuster should see that prompt steps are taken to protect the interior of a building from further damage by rain or cold weather if he finds that fire or other peril has opened the roof or broken the windows. In cases of emergency, tar paper may be nailed over holes in a roof, and windows may be boarded up. In many cases, however, it will be best to have the work of repairing the roof started at once and to replace window glass or sash without delay, in this

way avoiding the additional cost of temporary repairs. If the heating system has been put out of commission, and the weather is cold, either the plumbing should be drained or the heating system put in working order without delay. If water is standing on wooden floors, they should be swept and mopped as dry as possible in order to prevent swelling. If premises are fouled with mud or filth left by a receding flood, they should be shoveled out or washed out with hose streams. Wet debris in contact with woodwork should be removed and the building aired, or dried by artificial heat, according to the weather conditions and available facilities. If there is any danger that the contents will do further damage to the building because of weight, swelling, or movement, removal of the contents may be necessary.

The work of protecting the property should be done by the insured, as it is one of the duties imposed upon him by the policy. The cost of temporary repairs, or of other protective work in cases of necessity, becomes a proper item in the claim but like any other item is subject to contribution. Removal of contents belonging to a tenant should be done by the tenant at his expense.

The degree of supervision that the adjuster should give to the work of protection from further damage depends upon the integrity and ability of the insured. Some policyholders can be given a free hand, some must be helped and advised, others must be checked closely.

Estimating the Situation. When he knows the circumstances, the adjuster should estimate the situation and decide whether he should ask the insured to prepare and present claim, or participate in a joint survey, or make the repairs and file the bills. If the loss is total, it may be that there is a construction account that can be examined, or a cubic-foot approximation of value that can be made that will lead to a proper adjustment. If the loss is partial, the question arises: Should the cost of repairs be estimated or should it be determined by letting the insured do the work under conditions that will permit proper supervision or check?

Choice of Method of Adjustment. The adjuster should choose the method by which to determine value and loss. The objective in making the choice should be the method that promises to produce the most equitable adjustment at the least cost. Ordinary building losses are generally best settled by estimates or bids. Unusual losses, involving uncertainties, can often be well handled by having repairs made under check.

Preparation for Adjustment. If loss is to be adjusted by comparison of estimates, preparation should include a study of the estimates and a check of each against the property before meeting the insured for discussion. If repairs are to be made, arrangements should be made for their supervision and for an audit of their cost.

Adjustment Negotiations. In taking up adjustment of a building loss, the adjuster endeavors to reach an agreement with the insured on an amount that will reasonably represent the sound value of the building in case of total loss, or the actual or probable cost of making repairs in case of partial loss. If the policies contain a coinsurance or average clause, both the sound value and the amount of damage must be determined in any partial loss. The negotiations that take place during the adjustment must be in accord with the method that the adjuster chooses as being best adapted to the loss in hand.¹ The various methods are described in Chap. 3.

Appraisals. If the adjuster cannot negotiate an adjustment of a building loss at a figure approximating the amount he thinks is proper, he should proceed to determine the value and loss by appraisal. Appraisals of building losses, except on obsolete structures, generally result in satisfactory awards.

Final Papers. The original written estimate presented in support of the insured's claim should be forwarded with proof of loss. If the claim was presented orally, the details should be incorporated in the statement that the adjuster attaches to the proof. Any estimate that the adjuster prepares, or has prepared by a builder in his employ, should be handled in the same fashion. If the loss has been settled by accepting the record of repairs actually made, an account should be prepared showing the bill, or bills, rendered to the insured. If a loss is settled on the basis of a construction account or cost record, the adjuster's statement of loss, or his report, should show in detail the data on which he based his settlement.

¹ See p. 277.

Rents, Rental Value, and Leasehold

Rent, rental value, and leasehold insurance may cover (1) rents actually received or paid, (2) rents receivable from premises ordinarily rented but temporarily vacant, (3) the value to an owner of premises that he occupies, or (4) the value to a lessee of the use or possession of premises that he holds under lease.

As Subjects of Insurance. Rents and rental value are covered by forms, some of which cover only occupied or rented portions of a building, others of which cover all portions, whether occupied or vacant. Leasehold interests are covered by a variety of standard and specially drafted forms.

Effects of Perils Commonly Insured Against. If rented or subrented premises are damaged and rendered partly untenable, the owner or lessee will, in many cases, suffer some loss of rental income. In similar situations, an owner-occupant or a lessee-occupant will suffer some loss of use of the premises. If such premises are destroyed or so badly damaged as to be rendered wholly untenable, the owner may lose the entire rental income during the period required to rebuild or restore, and the lessee may lose a valuable lease due to its cancellation.

Rent Insurance. Rent insurance was devised to indemnify a landlord for the loss of rent that he would sustain if his building were damaged or destroyed by a peril insured against, and the tenant, by reason of the damage or destruction, was, thereafter, relieved from the obligation to pay rent. It has, in recent years, been greatly liberalized, and the landlord may now collect under it even though the tenant is obligated to continue paying rent.

Under the common law a tenant is not relieved by damage or destruction of the property from paying the rent agreed upon. Most of the states, however, relieve the tenant, by statute, from his obligation to do so. The New York and the New Jersey statutes are typical.

Sec. 227. WHEN TENANT MAY SURRENDER PREMISES

Where any building, which is leased or occupied, is destroyed or so injured by the elements, or any other cause as to be untenable, and unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his fault or neglect, quit and surrender possession of the leasehold premises, and of the land so leased or occupied; and he is not liable to pay to the lessor or owner, rent for the time subsequent to the surrender. Any rent paid in advance or which may have accrued by the terms of the lease or any other hiring shall be adjusted to the date of such surrender. (As amended, L. 1937, c. 100, eff. March 19, 1937.) McKinney's Cons. Laws of N.Y., Vol. 49, Pt. 1, p. 529.

Sec. 46: 8-7. BUILDINGS ON LEASED PREMISES TOTALLY DESTROYED BY FIRE OR OTHERWISE; LEASE TERMINATED

Whenever any building or buildings erected on leased premises shall be totally destroyed by fire or otherwise, without the fault of the lessee, the rent shall be paid up to the time of such destruction, and then, and from thenceforth, the lease shall cease and come to an end. This section shall not extend or apply to cases wherein the parties have otherwise stipulated in their agreement or lease. N.J. Stat., Ann., Title 46, p. 102.

Agreements between landlord and tenant are usually in writing and are called *leases*. Leases now in use generally contain a *fire clause*, which fixes the rights and duties of both lessor and lessee in case of fire. The following fire clause, frequently used in New York City, is similar to most fire clauses used elsewhere:

It is further agreed that in case the building, or buildings, erected on the premises shall be partially damaged by fire the same shall be repaired as speedily as possible at the expense of the lessor. In case the damage shall be so extensive as to render the demised premises wholly untenable, the rent shall cease until such time as the building shall be put in complete repair; but in case of total destruction of the premises by fire, or otherwise during the time hereby demised, the rent shall be paid up to the time of such destruction and then and from thenceforth, this lease shall cease and come to an end.

Under the terms of this fire clause, the tenant, in case of partial damage, is relieved from paying rent after the premises have been rendered untenable until such time as the fire damage has been repaired. The landlord will suffer a loss of rent during this period. In case of total destruction the tenant is relieved from any further obligation to pay rent.

Present-day rent forms disregard any obligation of a tenant to pay rent.

They stipulate that if the premises or any part of them be rendered untenable by a peril insured against during the term of the policy, the insurer shall thereupon become liable for the rental value of such untenable portions. They do not require the landlord to prove that he cannot collect from his tenant while the premises are under repair.

Rental Value Insurance. Rental value insurance was devised to protect an owner who occupies his premises and may be ousted by their destruction or damage, making it necessary for him to rent temporary quarters until his own property can be rebuilt or repaired and again be tenable. This form of insurance has, however, been extended to cover vacant premises or parts of them because a prospective tenant might appear at any time who would lease the vacant space.

Rent and Rental Value Insurance Combined. Insurance covering the rents of occupied parts of a building and the rental value of vacant parts is often combined in a single form.

Measure of Loss. The measure of loss under a rent or rental-value policy is the amount of rent or rental value lost because the premises, in whole or in part, have been rendered untenable by one of the perils insured against. It is stipulated in practically all forms that the loss shall be computed from date of destruction or damage and shall not continue for any greater length of time than would be required with the exercise of reasonable diligence and dispatch to make the premises again tenable. The additional time that might be necessary to find a new tenant is not covered. Practically, the measure of loss is determined by the period required under normal conditions to repair the premises and by the rate of rent paid or the rate of rental value. Rent and rental value are generally defined in the forms as the determined rents or rental value, less such charges and expenses as do not necessarily continue after the casualty.

Adjustment Factors. The majority of rent or rental-value forms incorporate the principle of coinsurance or average, based on the rent or rental value for some stipulated period, such as 12 months. In some forms the period stipulated is the number of months that would normally be required to rebuild the building in case of total loss. It is necessary, therefore, in the adjustment of most rent or rental-value losses to establish three factors:

1. The length of time that normally would be required to repair or rebuild the premises

2. The weekly, or monthly, amount of rent paid, or the weekly, or monthly, rental value of the portion, or portions, of the premises damaged and the charges and expenses that do not necessarily continue

3. The total amount of the rent, or the total rental value of the entire premises for the length of time on which coinsurance or average is based

How Adjustment Factors Are Determined. The length of time normally required to restore the premises may be determined by three methods: (1) estimated with or without the help of a builder, (2) fixed by allowing the actual repairs to be made and accounting for the time, (3) in case of disagreement, appraised.

If separately rented, or valued, sections of a structure are involved, the time necessary to restore each should be determined separately. The rate of rent to be paid can be determined from the lease. Some leases obligate the tenant to pay a certain amount monthly or quarterly and, in addition, to pay certain fixed charges, such as taxes or interest on a mortgage. Many mercantile leases also obligate the tenant to pay a percentage of the sales made. Occasionally premises are occupied by short-term tenants who do not execute leases. The rate of rent in such cases must be determined from the statements of the landlord and the tenant, from the books of the landlord, or from the canceled checks of the tenant. The monthly or annual rental value of a building occupied by its owner is to be determined by comparing the building with others of like size and occupancy, that are occupied by rent-paying tenants in the same, or similar, neighborhoods. The opinions of active real-estate rental agents may be sought as guides in such cases. The monthly rate of rent or rental value, multiplied by the number of months specified, will fix the basis of coinsurance or average.

Unsettled Question. Does the contract of rent insurance contemplate that, to the time that would be required with the use of ordinary diligence to repair the premises, there should be added the time which would be required for the adjustment of the loss on the structure rented or occupied? This question has been responsible for much controversy. Until it has been settled either by adjudication or by clarification of the form, the logical answer seems to be that a reasonable time for the adjustment of the property loss should be added to the time that would ordinarily be required to make the repairs. Under present conditions, practically all property on which rent insurance is carried is also protected by insurance on the property itself. It is reasonable to suppose that the work of repairing

a structure will not ordinarily be started until the estimated cost of the necessary repairs has been determined. Such determination ordinarily completes the adjustment of the loss under the policies on the building.

Appraisals. As a rule, appraisals of rent and rental-value losses are satisfactory. It is usually the time element that makes appraisal necessary. When a rent loss is appraised because of disagreement as to the length of time required to make repairs, the problem for the appraisers is one of building repair. Good builders are competent to appraise such losses. If a rental-value loss should require appraisal because of disagreement over the monthly rate of rent to be allowed, the adjuster might find it wise to nominate a real-estate agent as the insurer's appraiser, rather than a builder.

Final Papers. Final papers should include a statement of the monthly rate of rental applying to the building, if it is rented to a single tenant, or a list of the separately rented premises and the monthly rate of rent for each. The adjuster should also enclose a statement showing the estimated time required for repairing each separately rented section. If outside help is required to determine rental value, the report of the person employed should accompany the proof of loss.

Leasehold Interest. Leasehold interest insurance may be written to protect the interest of a lessee arising under any of the following conditions:

1. If the rental value of the premises is greater than the rent paid by the lessee
2. If the lessee is subletting the premises, or any part of them, at a profit
3. If the lessee has paid a bonus for the lease
4. If the lessee has installed at his own expense improvements that have become the property of the landlord
5. If the lessee is in possession under a lease that does not provide for cancellation or abatement of rent in case of fire

Under condition 4, the interest of the lessee may also be covered under an *Improvements and Betterments* form.¹

Effects of Damage or Destruction on Interest of Lessee. The terms of a lease determine what will be the effect of damage or destruction of the property upon the interest of the lessee. If the lease provides for cancellation, the lessee, in case of serious damage, may lose his entire interest. If a

¹ Losses on improvements, betterments, and losses involving the liability of a lessee to repair or rebuild in case of fire are discussed on p. 263.

casualty occurs but the damage is not sufficient to cancel the lease, the lessee may suffer a daily or monthly loss until the premises have been restored. The same kind of loss may also be suffered by a lessee if it is specifically provided that the lease shall continue, regardless of how seriously the premises are damaged.

Forms. Leasehold insurance is written under two kinds of form, devised to cover the interest of a lessee under a lease (1) that may be canceled by destruction or damage of the property, (2) that may not be canceled.

Forms of the first kind cover the full interest of the lessee in the lease. Those of the second insure against the loss that the lessee may expect to sustain while the premises are untenable as the result of fire. The second kind of form is generally written on a one-year basis.

Forms of the first kind provide that, in case the lease is canceled, a payment shall be made that is theoretically or actually equivalent to the value of the leasehold interest. This interest ordinarily diminishes in value from month to month as the lease approaches expiration. The forms, therefore, provide that the insurance in force shall be reduced monthly by a specific sum. These forms generally incorporate a provision for proportionate payment in case of loss that does not involve cancellation of the lease.

Forms of the second kind are similar in their intent to rent or rental-value forms. A lessee in possession under a lease that does not provide for cancellation or abatement of rent in case of fire can also be insured under a properly written rental-value form.

Cancellation of Lease. A lease may be subject to cancellation in case of fire because of a specific condition in the lease itself, known as a *fire clause*. In some states, a lease that does not specifically provide that it shall continue in case of fire may be canceled under the state law.¹ A fire clause commonly used in New York² provides for a termination of the lease in case the building is substantially destroyed, but there are a number of other fire clauses quite different in their provisions. Some provide for termination in case the building cannot be repaired within a certain period of time following damage by fire; others, that the lease shall terminate if the landlord decides to rebuild. In a few leases there is a modernized clause that includes other casualties as well as fire.

¹ The statutes of New York and New Jersey fixing the rights of the lessee are quoted on p. 280.

² See p. 280.

Measure of Loss When Lease Is Canceled. If a lease is canceled, the lessee suffers a loss measured by the value of his interest. This value will be determined by (1) the unexpired term of the lease, (2) the rent to be paid by the lessee, (3) the bonus, if any, paid for the lease and/or the amount, if any, spent for improvements, (4) the returns expected in use of the premises, or subrentals to be collected.

Excess of Rental Value over Rent Paid. If the rental value of the premises is greater than the rent paid by the lessee, the value of the leasehold interest is ordinarily estimated as being the difference between the rental value and the rent to be paid for the unexpired term of the lease, less proper reduction to determine present worth.

EXAMPLE

A lessee in possession of premises under a 20-year lease pays a monthly rental of \$1,000. At the beginning of the eleventh year of the lease the growth of the neighborhood has reached a stage where leases of similar premises are being made on the basis of \$2,000 a month. At this time the lease is canceled by fire. In the absence of unusual conditions, the value of the leasehold on a 4 per cent basis, interest compound semi-annually, will be as follows:

Monthly rental value.....	\$ 2,000
Monthly rent.....	1,000
Excess	\$ 1,000
Remaining term of lease, 120 months at \$1,000.....	\$120,000
Present worth at 4 per cent of 120 monthly payments, 83.14 per cent of \$120,000.....	\$ 99,768

Subletting. If the lessee is subletting the premises or any part of them at a profit, the value of the leasehold interest is ordinarily estimated as the difference between the total rent fixed by subleases in force at the time of the fire and the total rent payable by the lessee for the premises sublet, less maintenance and operating charges for the unexpired term of the lease.

EXAMPLE

A lessee in possession of premises under a lease that has 5 years to run sublets the premises at a total rent of \$15,000 a year payable monthly. He pays the owner a net rent of \$7,500 a year in monthly installments and pays taxes on the property of \$1,500 a year. The lease is canceled by fire. The value of the leasehold interest, in the absence of unusual conditions, will be determined as follows:

Total annual rent, fixed by subleases.	\$15,000
Annual rent payable.	\$7,500
Taxes, yearly	1,500
Fuel and janitor, yearly.	<u>2,500</u>
Annual profit.	<u>11,500</u>
Annual profit.	\$ 3,500
Remaining term of lease 5 years at \$3,500.	\$17,500
Present worth at 4 per cent of 60 monthly payments, 90.8 per cent of \$17,500.	\$15,890

Bonus Paid for Lease. If the lessee has paid a bonus for the lease, the value of the leasehold interest is ordinarily estimated as being the portion of the bonus that would be apportioned to the unexpired term of the lease.

EXAMPLE

A purchaser pays \$10,000 for a lease that has 10 years to run and becomes the lessee of the premises. At the end of 2 years, the lease is canceled by fire. The value of the leasehold interest, in the absence of unusual conditions, will be estimated as follows:

Full term of lessee's interest, 10 years
 Bonus paid, \$10,000

Amount of bonus apportioned to each year of lessee's interest,
 $\$10,000 \div 10$ \$1,000
 Unexpired term of lease. 8 years
 8 years at \$1,000. \$8,000

In this case there is no deduction, as no future savings or profits are being considered.

Improvements. If the lessee has installed, at his own expense, improvements that have become the property of the landlord, the value of this part of the leasehold interest is ordinarily estimated as being the amount of the expense that would be apportioned to the unexpired term of the lease.

Any calculation when improvements are involved is based on the same principle as that which governs when the interest of a lessee has been acquired by payment of a bonus.

The value of a leasehold interest may arise through a combination of conditions. For example, a lessee may install improvements and also experience a decided rise in the rental value of his premises. Under such conditions, the value of his interest will be determined by the amount of the expenditure and also the excess of rental value. In other cases, a lessee may pay a bonus for possession, make improvements, and, after doing so, sublet.

Measure of Loss When Lease Continues. If leased premises are damaged by fire so as to prevent the lessee from using them or from collecting subrentals, but the lease remains in force, the loss suffered by the lessee will be determined by (1) the length of time the premises are out of use, (2) the terms of the lease providing for abatement or continuance of rent, (3) the nature of the lessee's interest, (4) the terms of any subleases providing for abatement or continuance of rent.

Excess of Rental Value over Rent Paid. If the rental value is greater than the rent paid, and the rent abates in case of fire, the lessee's loss will be the difference between the two for the period of time necessary to restore the premises. If the rent does not abate, it will be the full rental value for the period.

EXAMPLE

If the rent abates,	
Monthly rental value.	\$500
Monthly rent paid.	350
Difference.	\$150
Time necessary to restore property, 5 months,	
5 months at \$150	\$750
If rent does not abate,	
Monthly rental value	\$500
Time necessary to restore property, 5 months,	
5 months at \$500	\$2,500

Subletting. If the lessee is subletting at a profit and his rent, expense, and subrentals abate in case of fire, his loss will then be the difference between the sum of his rent and expenses, and the aggregate of the subrentals for the period of time necessary to restore the premises.

EXAMPLE

Aggregate monthly subrentals	\$750
Monthly rent.	\$500
Monthly expense	100
Difference.	\$150
Time necessary to restore property, 5 months,	
5 months at \$150	\$750

Subletting with No Abatement from Lessor. If the lessee is subletting at a profit and his rent and expense do not abate, but his subrentals do, his loss is the full amount of his subrentals. An example illustrating this self-evident proposition is unnecessary.

Bonus Paid for Lease. If the lessee has paid a bonus or improved the property at his own expense, his loss will be such proportion of the bonus, or cost of improvements, as will be apportioned to the time necessary to restore the property.

EXAMPLE

Bonus paid for lease	\$10,000
Unexpired term of lease at time bonus was paid.	10 years
Proportion of bonus apportioned to each month, $\frac{1}{120}$ or . . .	\$ 83 33
Time necessary to restore property, 5 months, 5 months at	
\$83 33.	\$416 66

When a bonus or the cost of improvements is apportioned, the apportionment should be made over the number of months remaining in the term of the lease at the time the bonus was paid or the improvements made.

The loss suffered by a lessee whose lease continues may involve, at the same time, increased rental value, bonus, and improvements, or bonus, improvements, and subrentals. When more than one element of loss is to be considered, the elements should be determined separately.

Adjustment Factors. The adjustment of a leasehold loss may call for the determination of three or more of the following factors:

1. *Rent Paid by Lessee.* The rent to be paid by the lessee is usually stipulated in the lease, which should be examined. If claim is made for an amount different from that stipulated, the adjuster should ask for supporting evidence, such as canceled checks, receipts, or entries in books of account.

2. *Term of Lease.* The term of the lease is to be taken from the lease itself. If the lease contains an option of renewal, the language of the option should be carefully studied.

3. *Provision in Case of Fire.* The effect that a fire may have on the lease will generally be stipulated in a clause in the lease, often headed, *Fire Clause*. If there is no provision in the lease, the state law should be looked up. The fire clause is generally copied in the policy form with a warranty that it shall not be changed without notice to the insurer. The form should be compared with the lease.

4. *Bonus Paid.* The amount and date of payment of any bonus are both necessary items in the adjustment of a leasehold loss. Written evidence, such as canceled checks, contracts, and book entries, should be asked for.

5. *Improvements.* The amount expended and the date of installation of improvements should be established. Bills, plans, specifications, and canceled checks are pertinent evidence. If a purchaser of a lease pays for

improvements made by the lessee who sells to him, the payment should be treated as a bonus.

6. *Cost of Operation, Taxes, Charges, Expense of Maintenance.* The items in this heading should be taken from books of account or substantiated by canceled checks.

7. *Subrentals.* Subleases should be examined. If subtenants are in possession under oral rent agreements, their statements should be taken for comparison with the items of the claim.

8. *Rental Value.* Rental value is a matter of estimate. Comparisons of floor areas, space, and location should be made with those of other properties rented. The rental value claimed should not exceed current rentals paid for similar property in equally desirable neighborhoods. In case of doubt, a competent renting agent should be consulted. Rental value may be appraised in case of dispute.

9. *Time Necessary to Restore the Property.* The time necessary to restore the property is to be determined by agreement, using the help of a builder if necessary, or by appraisal.

Practical Considerations. A tentative theoretical value of a lessee's interest may be based on the assumption that conditions prevailing at the time the value is calculated will persist throughout the term of the lease. Such a value of a lessee's interest under a long-term lease should be checked against estimates obtained from real-estate operators who are familiar with rental conditions. The longer the lease, the more uncertain will be the actual value as contrasted with the theoretical. The best test of value is the offer a competent tenant or operator will make for a similar lease.

The value of a leasehold extending over 20 years may be tremendously enhanced by a change in traffic routes, or by the coming into the neighborhood of owners, tenants, or types of business that tend to make it more desirable. On the other hand, a decline in the importance of the neighborhood or the increasing obsolescence of the particular building under lease may in a few years destroy, or at least depreciate, the value of the lessee's interest.

Final Papers. Final papers should include originals or copies of any estimates of the damage to the property, or the time necessary to restore, together with reference to the evidence from which the other factors of loss were determined. If rental value, or the probable price for which the lease could have been sold, was estimated by an expert, the estimate should be made a part of the papers.

Personal Property in Use

Personal property is considered by underwriters and adjusters as falling into two general categories: (1) *personal property in use* and (2) *stocks of merchandise*.

Personal property in use, hereafter referred to as *personal property*, is encountered by the adjuster as single articles specifically covered, or as groups of articles, covered by specific or blanket items.

Diamond rings, other pieces of jewelry, fur coats, cameras, pictures, statues, antiques and art objects generally, printing presses, refrigerator showcases, computing scales and many other kinds of equipment, steam shovels, cranes, and similar mechanisms used by contractors or industrial organizations are examples of single articles often covered specifically.

Household furniture, equipment and supplies, fixtures, machinery, farm equipment and produce, and the contents of libraries, schools, churches, and art galleries are the groups of articles most often covered as single items, or as blanket items also including other property.

Effects of Perils Insured Against. Personal property may be lost, destroyed, or damaged by one or more of the perils insured against, or by removal from premises endangered by a peril. If left damaged or exposed by the action of a peril, further damage may be suffered unless the property is protected.

Measure of Loss. In accepted practice the value of personal property that, if lost or destroyed, can be replaced is the cost of replacement less deduction for depreciation. If such property is damaged, the amount of loss is agreed upon as the cost of repairing the property less deduction for any betterment that may result from the repairs. Ordinarily, useful articles of personal property do not present difficult questions of value as their replacement costs can be established by inquiry and the causes of

their depreciation are well recognized. Most of them can be repaired if damaged.

Personal property that cannot be replaced, unique works of art, for example, may be very difficult to value and, if damaged, impossible of restoration to its original condition. The accepted practice in dealing with such property is to treat each case according to the circumstances affecting it.

Depreciation. The causes and evidences of depreciation as encountered in losses involving personal property will be outlined in the sections of this chapter dealing with the several groups of property.

Valued Articles. Many valuable pieces of jewelry, pictures, art objects, books, documents, and antiques are covered by valued policies of inland marine insurance. When loss occurs under a valued policy, the insured is usually entitled to collect the insured value of any article lost or destroyed. An excepted instance is fraudulent overvaluation.

Procedure. Procedure in personal-property losses includes (1) getting the insured's story, (2) identifying the property and checking the coverage, (3) establishing the interest of the insured and of others, (4) saving endangered property or recovering lost property, (5) examining the property and surveying or estimating the situation, (6) choosing a method of adjustment, (7) protecting the property from further damage, (8) separating the damaged and undamaged property and putting it in order, (9) making preparation for discussing value and loss, (10) agreeing upon value and loss, or fixing them by appraisal, (11) checking claim, and (12) preparing final papers.

The Insured's Story. At his first opportunity, the adjuster should get the insured's story of the loss and as soon as possible some statement indicating what property will be included in the claim, how it will be valued, and how the insured will determine the amount he intends to claim. In minor losses, particularly when everything is visible, there is, ordinarily, little for the insured to tell, and a few questions by the adjuster will develop the story. But there are many losses involving personal property in which it is advisable for the adjuster to question the insured at length in order to get him to tell as much as he can (or will) about what he had, how it was lost, destroyed, or damaged, and what reasons he has for his opinions as to value and loss. Situations in which the insured's story is particularly important include those in which the property is not in evidence, the cause of the

loss is in question or under suspicion, or the value or amounts of loss claimed are not in keeping with what the adjuster sees when he examines the property or makes a survey of the premises or of the scene of the loss.

Identification of Property and Check of Coverage. Identification of personal property, if it is in evidence, is made by a survey and inspection and by a comparison of the appearance and location of the property with the description and location set forth in the policy. Attention should be given to any special features, such as material, shape, size, color, model, or number when a valuable article is involved. If such an article is missing or has been destroyed, examination must be made of any documentary evidence of its existence, such as a bill of sale, invoice, or contract of purchase.

Check of coverage is made by examining all policies held by the insured and by making particular inquiry about additional coverage under policies issued to others, if loss occurred on their premises. In bailee risks, the property of bailors is often covered by policies issued to the bailee.

Establishing Interests. In some losses the adjuster will find on the premises, in addition to the personal property owned by the insured, similar property that he is buying under a conditional-sale contract, or has rented or leased from others, or is using on trial as a possible future purchaser. When such is the case, the contract, rental agreement, or lease must be examined and inquiry made as to whether the vendor, owner, or lessor carries insurance of his own covering the property. In many instances the insurance under the policy or policies held by the insured will be payable to the vendor, owner, or lessor. The insured is a bailee of any personal property he is buying or using, and as a bailee will not be liable for loss of the property by fire, theft, explosion, windstorm, or other perils unless loss is due to his negligence or he has agreed to assume liability as part of the contract of sale or use. Generally, such contracts stipulate that he is to be liable. There is, ordinarily, no agreement on the part of a householder, merchant, or manufacturer to assume liability for property that he is using on trial and may decide to buy.

When the adjuster is handling a loss under the insurance of an owner who has stored his household goods, fixtures, or machinery in a warehouse, the situation is reversed, and the warehouseman, not the insured, is the bailee. The adjuster must then establish whether the warehouseman is liable for the loss or holds insurance for the benefit of owners who store property with him.

Examination, Survey, and Estimate of the Situation. In most personal property losses the amount involved is not large, and the cause of the loss is known. It is, therefore, easy to see what has happened to the article or articles involved and to decide whether the property can be repaired to the satisfaction of the insured or has been so badly damaged that it must be replaced. The work of examination and survey is, in such losses, done rapidly and without difficulty. Often, the adjuster does it while the insured tells his story as the two look at the thing or things that have been damaged or walk through the room or section of the premises where the loss occurred. The burned, broken, or wet condition of the pieces of furniture, fixtures, or machinery confirms the insured's story of how the loss occurred and enables the adjuster to decide whether repair or replacement will be necessary, while the pieces themselves give him an idea of their respective values. A look around the premises enables him to decide whether any repairing or cleaning should be done on the premises or at shops or other establishments outside. With the situation in mind, he is ready to discuss amount of loss or to suggest that a repairman or cleaner be called in and asked to estimate the cost of necessary work. He may authorize the insured to send out articles for immediate attention or may suggest that he get a bid for replacing total-loss articles.

In the larger losses and in those that are complicated or doubtful, whether large or small, the work of examination and survey is time-consuming and often difficult. In general, it is directed toward developing the facts that are evidenced by the property and its condition, and the information to be found in the environment, or even elsewhere, that will show or indicate what has happened, what articles are involved, what are the nature and extent of loss or damage, what, if anything, can be done to minimize it, what evidence is to be had that will show the value of the property or the cost of repairing or reconditioning it, and what method should be used in adjusting the loss.

When the property is in evidence, it should be examined, and, in many cases, the premises and surroundings should be surveyed so that exploratory or protective measures can be planned or arrangements made to handle the property efficiently. When the property is not in evidence, a survey of the scene of the loss should be made for evidence of what happened.

By comparing what he finds when making the examination and survey with what the insured has told in his story, the adjuster is able to form an

intelligent estimate of the situation that confronts him and also of the insured's accuracy and honesty.

Examination and survey may begin at any time, before hearing the insured's story or any part of it, or afterward. In some losses details of the work can be planned from the start with assurance of completion according to schedule. In others, some kind of beginning must be made, and the ending will come only after a course of trial and error. Sometimes the work continues until after the insured has made his inventory and presented his claim. While it is essential that much of the work of any important examination and survey be planned according to the pertinent parts of the insured's story, the work should not be limited to a check of the story but should include everything necessary to develop, from a study of the property and its environment or from inquiry elsewhere, all information that should be considered by the adjuster in taking positions or planning actions.

Much that appears in the following outline will also be found in the sections of this chapter on choice of method of adjustment, preparation for discussing value and loss, agreeing upon value and loss, and check of claim. The work discussed in those sections often merges with the work of examination and survey. The outline is useful as a check sheet.

THE PROPERTY

Possibility of Examination

Is the property on which the insured will make claim in evidence and in such condition that it can be correctly inventoried?

If it is, are all the articles accessible and can their condition be determined by examining them where they are and as they are, or must they be moved, separated, unpacked, or disassembled before examination will be possible?

If the property is not in evidence, are there any physical remains, or anything in the appearance of the space or the location where the insured says it was last seen that indicates its existence before the loss?

If it is in evidence but in such condition that it cannot be inventoried, can identity or quantity be approximated by weighing or measuring?

Cause of Loss

What signs are shown by the property indicating that damage was caused by a peril insured against?

Are there indications of previous damage?

Are there indications of intentional damage?

Extent of Damage

What articles are obviously a total loss?

What articles are seriously damaged?

What articles are slightly damaged?

Are any articles undamaged?

Depreciation

What indications are there of the age of the property and of its care, or lack of care, before loss?

Probable Value and Loss

What is the probable value of all property covered by the policies or by the item?

What is the probable amount of loss?

Protection from Further Damage

Will any part of the property be subject to further damage unless protected?

Is the value of such part great enough to warrant the cost of protecting it?

THE PREMISES

What is the condition of the premises; do they offer safety, space, and facilities for handling the property?

Does their condition indicate cause of loss?

THE ENVIRONMENT

Is there anything in the environment of the premises and property indicating cause of loss?

Is there anything in the environment that has tended to cause the property to depreciate?

PLANS FOR PROTECTING AND HANDLING THE PROPERTY

Should anything be done to the premises to make them safe to work in while protecting the property?

Should anything be done to the premises to protect the property?

Should the property or any part of it be moved elsewhere for protection?

Should the premises, debris, or site be searched for missing articles?

Should articles moved from the premises be traced?

Is any work necessary to make articles that are worth saving accessible?

How should the articles be treated to protect them from further damage?

How should separation and putting in order be done?

Are there articles that, because of ownership or interest, should be separated from the rest?

Is there debris that should be held as evidence until inventory is completed and loss agreed upon?

Should plans be made to repair the property in place or send it out for repair?

PLANS FOR INVENTORY

How should counting, weighing, or measuring of property and describing and pricing of inventory be done?

What is the possibility of accurate valuation of the articles and estimate of damage?

Should an expert be employed to help with the inventory?

Should the inventory be made jointly by the insured and the adjuster or by representatives of either?

Should undamaged property be inventoried?

DEVELOPING AND RECORDING EVIDENCE

What records of the acquisition or operation of the property are available?

Is there any appraisal of the property?

Should witnesses be interviewed and their statements taken?

Should photographs be made?

Should the numbers or other identifying marks of any articles be recorded by copying or by making a rubbing?

Should measurements or sketches of the premises be made, or should the debris be weighed, counted, or measured for proof or indication of quantities?

Choice of Method of Adjustment. The methods ordinarily used in adjusting personal-property losses are (1) to examine the property in company with the insured and try to agree upon an amount of loss, (2)

to have the insured recondition, repair, or replace the property and present claim based on the cost of doing so, (3) to exercise the company's option to recondition, repair, or replace, or (4) to take the property at an agreed value and sell it as salvage.

In the majority of personal-property losses, the adjuster chooses the first method, tells the insured how to separate, preserve, and inventory the property, cautions him not to dispose of any of it except by permission, and waits for the insured to prepare and present claim. When the claim is presented, the adjuster meets the insured and tries to agree with him on an amount.

In many losses, however, the adjuster realizes that, unless he aids in making the inventory, the insured will make one that will be incomplete, incorrect, out of order, or otherwise unsatisfactory. In such losses the adjuster will help examine, count, list, and price the articles to be inventoried with the understanding that the insured will later decide how much to claim on each. In large and important losses, the adjuster may find it advisable to employ expert help to do the work or assist in it.

In some losses the insured will ask the adjuster for advice and help in preparing the claim. In such losses the claim will often be developed by a step-by-step process—the insured will tell the adjuster his story, show him the property if it is in evidence, and agree with him upon what articles are to be listed on the inventory and how much is to be claimed on each.

In some losses, the adjuster will ask the insured to have a repairman examine the property and submit a bid for putting it in order and may himself employ another repairman to do the same.

In other losses, the adjuster will choose the second method and will authorize the cleaning, reconditioning, or repairing of the property, the insured to have the work done and account for the cost. Clothing, floor coverings, or draperies, wet or smoked during a fire, are often sent at once to cleaners. In many cases the bill of the cleaner will be the amount of the claim. Rugs, particularly orientals, garments, tablecloths, laces, or other articles that have had holes burned in them can, in many instances, be rewoven to the satisfaction of the owner.

Repair under the supervision of a representative designated by the adjuster is a method used with great effectiveness in handling losses involving complicated machines and electrical equipment, losses which can rarely be estimated with any degree of accuracy owing to the various

contingencies that may affect the cost of dismounting, examining, and repairing the property. Typesetting machines, steam turbines, generators, and telephone-switchboard equipment are examples of property on which the amount of loss can seldom be estimated with accuracy and which when damaged should ordinarily be repaired under check.

The adjuster will, in occasional cases and as a last resort, choose the third method, after having failed in the use of the first or second, and exercise the company's option to recondition, repair, or replace the property.

Many personal-jewelry and fur-garment losses are disposed of by replacement, not as an exercise of the option to replace, but as the result of an offer to replace made by the adjuster and accepted by the insured. Insurers doing a large personal-jewelry or fur business are able to buy at better prices than individuals and can, therefore, advantageously make replacements.

The adjuster seldom chooses the fourth method. Personal property in use is rarely taken over and sold as salvage, a practice that is common in the adjustment of losses on stocks of merchandise.

Endangered or Lost Property. The New York Standard Policy includes insurance against direct loss "by removal from premises endangered by the perils insured against in this policy." It contains the stipulation:

This Company shall not be liable for loss by fire or other perils insured against in this policy caused directly or indirectly, by . . . (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises . . .

If personal property has been stolen, lost, buried, or submerged, it is the insured's duty to make reasonable efforts to recover it. Sometimes it is advisable for the adjuster to supplement such efforts. If endangered property has been removed to one or more places of safety it should, in due course, be collected and returned to the premises unless they have been destroyed, or forwarded to destination if it was in transit.

If property has been made inaccessible, it is the insured's duty to clear a way to it so that it can be protected from further damage and saved, unless there is reason to believe that it is not worth saving.

Expense incurred by the insured in saving or recovering property, or making it accessible for saving, is part of his loss and, unless the amount spent exceeds the value of the property ultimately recovered, is collectible,

subject to the operation of any contribution or other clause limiting the amount for which the insurer is liable.

Protection from Further Damage. Personal property is usually kept in buildings and is, as a rule, subject to damage if exposed to the weather. When fire occurs, flame, heat, smoke, or water or chemicals used by firemen may do immediate damage to both buildings and contents. Sometimes one will be damaged, and the other unharmed. Damage may be such that, after the fire has been extinguished, the walls and roof of the building will admit rain. The contents may be untouched by fire but may be wet from water used by the fire department. If the scene of the fire is in a district that has no fire department, the insured and his neighbors may have removed the contents while the fire was burning, scratching or breaking some in the process. Contents so removed will generally be piled about indiscriminately on the ground. In any of these cases, further damage is likely to occur if the property is left uncared for.

Protective measures must be adapted to the situation. Buildings that are open to the weather should be made weatherproof, unless damaged so badly as to make temporary repairs too expensive, or permanent repairs too slow to serve the purpose of protecting the contents. In such cases, all articles worth saving should be removed to another structure for protection and reconditioning. In similar manner, any property moved out because of being endangered by fire or other peril should be put under a roof as soon as possible.

When property has been made safe from the weather, the individual articles should be given whatever treatment they require.

Personal property that has been partly burned or scorched is not, as a rule, subject to further damage if left undisturbed. Probably the single exception is livestock. Animals are sometimes rescued from fire with burns or scorches that may develop infections unless treated promptly. Most of the damage to personal property that occurs after a fire is due to water or moisture. The usual methods of preserving the different kinds of personal property from further damage will be outlined in the sections dealing with specific kinds of property.

Personal property involved in losses due to explosion, riot, windstorm, smudge, sprinkler leakage, aircraft, or vehicles should be protected from further damage as circumstances indicate.

If the adjuster finds on his arrival at the scene of the loss that the in-

sured has not commenced to care for the property, he should try to get the work started at once and pushed to conclusion as rapidly as possible. If the insured and his family, or his organization, cannot supply the needed manpower, it may be advisable for the adjuster to authorize the insured to hire labor or call in furniture movers, carpet cleaners, or machinery repairmen and thus hasten the work. Their charges become part of the loss and are collectible out of the insurance, subject to contribution or other limiting provisions.

Separation, Putting in Order, Inventory. The New York Standard Policy requires that the insured shall

forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged, and undamaged property, showing in detail quantities, costs, actual cash value, and amount of loss claimed . . .

The purpose of this requirement is (1) to eliminate from consideration articles that are undamaged, (2) to present the property for inspection in the condition that will make its remaining value most apparent, and (3) to produce an inventory that will show all articles with the amount claimed on each and thus aid in orderly consideration of the claim and determination of value and loss.

Separation, putting in order, and inventorying are all necessary when the property is in part damaged and in part undamaged. The details of each step as it is taken with the several groups of personal property will be illustrated in the sections of the chapter devoted to these groups.

The requirement that the insured shall separate the damaged and undamaged personal property speaks for itself and rarely calls for discussion. The requirement that he shall put it in the best possible order has never, so far as the author knows, been discussed by any of our courts. It seems to be accepted practice to require the insured, for example, to match up mixed shoes into pairs of the same size and style and sort out and assemble the scattered pieces of a set. There does not seem to be any expectation that the insured will do any reconditioning before presenting claim.

Preparation for Discussing Value and Loss. In the great majority of personal-property losses the adjuster examines the property, listens to the insured's story, checks the insurance, and proceeds at once to discuss value and loss. No preliminary preparation will usually be necessary as

the adjuster will be familiar with the kind of property involved. In some losses, however, he will find it advisable to inform himself about the property, its value, and the amount of loss, in preparation for discussion with the insured, and perhaps to employ an expert to help him.

When the property involved is in evidence, it speaks for itself, and if its value or the amount of loss promises to be a matter of disagreement or is problematical, the adjuster or any expert employed by him can examine the property, measure, weigh, or count it, and also test it physically or chemically. If the damage is of a kind that requires repair, the nature and extent of the repairs can be determined and estimates made of the cost.

In the vernacular of fire-loss adjusting, if personal property is in evidence after loss, it is said to be "in sight," if not, "out of sight." In some instances it will be reduced to a valueless condition by fire, but if enough of it remains to be counted and identified, it will be treated as in sight.

If the insured's story indicates that claim will be made for property not in sight, the circumstances attending the loss may raise the question whether the property ever did exist and whether it was lost or destroyed as the insured says it was. When such is the case, the statements made by the insured must be weighed against whatever documentary evidence or testimony he may offer. The insured's credibility may require investigation. His statement may call for checking against physical conditions such as the space occupied by the property, the insured's income, or his history.

Preparation for discussion may require the development of evidence bearing on value and loss with arrangements for later presenting the evidence to the insured in the way that will be most convincing.

In some losses, preparation should begin as soon as the adjuster has seen the property and heard the insured's story. In others, better results will be had if it is not commenced until after the insured has finished and presented the inventory.

Preparation for an intelligent discussion of the value of an article may well begin with getting in mind and also on paper a concise, but comprehensive, description of it. If it becomes advisable to make inquiries of others about it, such a description will enable them to give definite answers as to original cost and cost of replacement. The adjuster should familiarize himself with the character and quality of the article and in some instances trace its history. He should ascertain its condition and the

prospect for its future usefulness or desirability at the time and place of the loss.

While fur coats, diamond rings, and excavators have been chosen for specific treatment, what is said about them in the following paragraphs will apply to practically all other articles of personal property.

A fur coat may be made of any one of four kinds of furs that resemble seal. Such a coat may be spoken of as imitation seal, but such a loose description will give no basis for pricing the coat. An exact description, assuming style and size are known, might show a market price of \$500 for Hudson seal (dyed muskrat), \$235 for near seal (French or Belgian hare), or \$185 for sealine (Australian rabbit).

A diamond of a given weight and cut will vary in value according to three factors: color, perfection, and make. Limpid, clear, blue-white stones are the most valuable according to color, with the exception of the rare "fancy color diamonds" such as green, pink, or canary, which are sold at a great premium. According to perfection the most highly valued stone is one that shows no imperfection when examined under the magnification of a 10-power loupe. Imperfections are of various natures, such as black-carbon spots, small nests of black or white spots, white lines, cracks, and, perhaps, other flaws. The more of these there are, the less valuable the stone. Make is not to be confused with the form of cutting, such as emerald cut, round, or marquise. The word "make" is used in reference to the proportion and placement of the facets, as on these depends the brilliancy of the stone. Many "old-cut" stones are badly proportioned and have unevenly placed facets, faults of make that diminish brilliance and decrease value. The effect of the factors of color and perfection on the carat value of a 2-carat diamond in the market of January, 1949, is shown by the following figures:

	<i>Value per carat</i>		
	<i>Perfect</i>	<i>Slightly imperfect</i>	<i>Imperfect</i>
Finest color	\$1,500	\$1,000	\$500
Slightly yellow	800	600	400
Dark yellow	400	300	200

The factor of make is difficult to evaluate, as the depreciation due to faulty make depends upon how much weight would be lost in recutting the stone.

An excavator, a machine that is superseding the steam shovel, may be (1) a stripper shovel, (2) a dragline, or (3) a crane and clamshell combination, according to the type of boom and bucket operated by the crawler-mounted power plant. January, 1949, quotations for the Post Model 1055 LC made by the Harnischfeger Corporation of Milwaukee, f.o.b. factory, with standard equipment, were:

Stripper shovel	\$94,680
Dragline—no bucket.	85,060
Crane and clamshell combination—no bucket	84,960

Tracing the history of an article may lead to finding out when, where, and by whom it was made; when, how, and at what cost the insured acquired it; how it has been kept or used; and occasionally what efforts the insured has made to dispose of it. A knowledge of its history enables the adjuster to fix the age of an article and form an opinion of its usefulness and desirability; also of the wear and tear or other causes of depreciation that had probably affected it prior to time of loss. The history of some rare articles, generally works of art, will show a rising value as they have passed from the hands of one owner to another through a succession of sales.

The history of a suit of clothes may be that it was made to order for the insured by a reputable tailor 2 years before date of loss for the sum of \$150 and that the insured wore it every other week from about October to June each year, had it cleaned and pressed regularly, and kept it in a mothproof closet during the summer period when he was not wearing it. From such a history the adjuster knows he is dealing with a good quality, useful, and otherwise desirable suit, and that the depreciation it had undergone to date of loss was not severe. The cost of duplicating the suit can be determined with certainty by getting a price from the tailor, depreciation can be based on the length of time the insured has usually worn his suits before discarding them, and the value of the suit thus fixed with a reasonable degree of certainty.

The condition of an article, whether sound or deteriorated, whether in good repair or in need of repair, affects its value. If, after a loss, an article

is in sight, its condition at the time of loss can in many instances be determined by examination. In other cases, however, it will be too badly damaged to show its condition before the damage occurred. In such instances and also those when the article is not in sight, its condition prior to loss must be ascertained through questioning persons who were familiar with it or by examining circumstantial evidence.

A new standard typewriter, sound and in good working order, is worth what it would cost to replace it. If only drenched by water used to extinguish fire on one of the floors above the office in which it is part of the equipment, its good condition prior to the fire will be evident on examination. If, however, the building was destroyed and the typewriter reduced to junk, its condition before the fire could be determined only by questioning the owner or the employee who operated it, or by checking the date of its purchase and giving consideration to the fact that nothing much could have gone wrong with it in the few days or weeks it had been in the office.

The prospective usefulness or desirability of an article is the circumstance that controls its value. The up-to-date washing machine is worth the cost of replacing it; the obsolete model, on the other hand, is worth only what a buyer will pay for it or a dealer will allow for it as a trade-in. The prospective usefulness or desirability of articles in daily use is a matter of common knowledge. Comparable with the obsolete-model washing machine is, in many instances, the ice refrigerator in territory where electric current is cheap. Many types of machinery and equipment using steam for power are becoming less and less desirable as similar equipment powered by diesel or gasoline engines is being produced. Out-of-style wearing apparel and out-of-date luggage are worth very little.

In all important personal-property losses, when the amount to be paid by the insurer depends upon value, the adjuster should prepare himself on any of the circumstances outlined that may affect the value.

Preparation to discuss intelligently the amount of loss to an article, assuming that it has been damaged but not lost or destroyed, requires first of all that the adjuster familiarize himself with the nature of the article, and the extent or degree of the damage it has suffered.

Again using for illustration the fur coat, the diamond, and the excavator, the adjuster may encounter the following situations.

A diamond ring covered under an all-risks policy and being sent by

registered mail or express to a jeweler for cleaning and polishing may be involved in a railroad wreck or plane crash and damaged. If so, the adjuster, before discussing the amount of the damage, should find out whether the damage is limited to the bending or breaking of the band and other metal parts of the ring or whether the diamond was broken, chipped, or cracked. Such information must almost always be developed through the aid of a jeweler. If only the metal parts of the ring have been affected, the cost of repair will be relatively small. If, however, the diamond itself has been broken, chipped, or cracked, replacement, with credit for whatever salvage can be had from the damaged stone, or recutting and resetting may be necessary. The cost of recutting and the loss in value due to loss of weight will both be elements of loss.

If a fur coat has been torn or scorched or a hole burned in it, it is necessary to know how many skins were damaged and whether the lining was affected. Examination by a furrier is almost always necessary.

If an excavator is damaged by cave-in or landslide, it becomes necessary, after recovering it and getting it to a place of safety, to find out what parts have been broken and must be replaced, what broken parts, if any, can be satisfactorily welded, what bent parts can be straightened, and what must be replaced. It is also necessary to find out how much dismounting, testing, and cleaning should be done. The advice of expert repairmen should be had.

How the adjuster shall make his preparation will depend upon such things as his own knowledge and experience, the character of the property and what has happened to it, and the character, ability, and attitude of the insured and of any persons representing him or helping him.

In some cases examination of the property, discussion with the insured, and consideration of the evidence he offers will be sufficient. In others, however, independent and searching investigation by competent experts is necessary.

In serious losses the objective of preparation is the development of estimates or statements made by experts whose character and standing are such as to make their opinions respected. When the adjuster has in hand the figures of such an expert, particularly if the expert is prepared to duplicate or repair the property at the figure he quotes, the adjuster is well prepared to discuss the amount of loss with the insured.

When his preparation has been completed, the adjuster should have

definite ideas of wherein the insured's claim is in order or out of order, and should have in hand evidence that will justify any opinion he intends to express when discussions of value and loss begin.

Personal property is often the subject matter of fraudulent losses and claims. Jewelry and furs are at times sold, given away, or hidden and afterward reported to the insurer as stolen. Collections of pictures that are cheap copies instead of the expensive originals they are claimed to be, machine-woven rugs represented as costly Orientals, and buildings containing assemblies of antiquated machinery and equipment inventoried as new are at times deliberately set on fire with precautions taken by the incendiaries to burn the property badly enough to destroy its value, yet permit the articles to be counted in support of a claim.

Scheming, grasping, and unscrupulous claimants often falsify in various ways their inventories of personal property in order to inflate their claims.

Falsification directed toward increasing the amount of loss is generally accomplished by (1) increasing the quantities of destroyed or damaged articles listed in the inventory, (2) increasing the prices of such articles, or (3) overstating the amount claimed on damaged articles. In support of increased quantities of damaged articles in sight, the articles will sometimes be taken to pieces and each piece will be tagged and counted as an entire article. Increased prices may be supported by describing low-grade articles as high-grade. Overstatement of amounts claimed are often supported by written statements given the insured by compliant outsiders.

Falsification directed toward reducing value, when coinsurance or contribution is involved, is accomplished by (1) omitting undamaged articles, (2) decreasing the quantity of such articles, or (3) decreasing their prices. Undamaged articles will, at times, be removed from the premises, or efforts will be made to conceal them. Decreased prices will be supported by describing high-grade articles as low-grade.

Agreeing upon Value and Loss. In many of the smaller losses and in some that are not small, the insured and the adjuster examine the article or articles involved, discuss the value of each and the amount of loss to each and by a give-and-take process iron out differences and end their discussions by agreeing upon value and loss.

In other losses, the insured delivers to the adjuster a descriptive statement, invoice, appraisal, or inventory, noted or prepared so that the value

of any article and the amount claimed on it is formally stated in writing. The adjuster examines each article and may discuss figures with the insured, or, on the other hand, may enter figures of his own opposite those of the insured and discuss them after finishing the examination of the property.

In many losses, the insured gives the adjuster an inventory showing the cost or value of each article, but not stating the amount claimed on each. He will ask the adjuster to meet with him, examine the property, and try to come to an agreement on figures.

In many losses involving articles that must be repaired, the insured and the adjuster have separate estimates prepared by persons competent to make the repairs and compare the estimates.

When property has been cleaned or repaired according to an agreement that the insured have the work done and account for the cost, the adjuster checks the bills presented by the insured and examines the property if the insured is not satisfied with the work. In some cases, it will be necessary for the adjuster to make an allowance for stains that cleaning will not remove or for damage that cannot be fully restored by repair.

In losses involving replacement or repair under the insurer's option, the insured's acceptance of the replacement or repair must be obtained and should be evidenced by his signature on a certificate of satisfaction.

What is said in this section applies to personal-property losses of all kinds.

Check of Claim. The adjuster should check personal-property claims and eliminate property or expense that is not covered by the policy or the item, also any loss that is not covered.

Under the New York Standard Policy, for example, money is a kind of property not covered and theft a kind of loss not covered. Under wind-storm policies, loss due to high water, tidal wave, or overflow, whether driven by wind or not, is not covered. Under a policy or item covering machinery, stock is not covered, and wiring and piping belonging to the building are not covered. Expense incurred for the convenience of the insured, which does not reduce or prevent loss under the policy, is not covered. Unrestored damage due to previous loss is obviously not covered.

In some forms a limit of value or limit of loss will be placed on a unit of property. For example, a form covering livestock may stipulate that no horse shall be valued at more than \$500 and no cow at more than

\$150. Sometimes the language used will read: "Loss on any one horse shall not exceed \$500 and loss on any one cow shall not exceed \$150." When such stipulations are present, it is important for the adjuster to mark the inventory so that it will show that he has given proper treatment to any figures of value or loss in excess of those stipulated.

Some forms exclude coverage on certain kinds of property; for example, underground piping. Some forms exclude coverage of property otherwise insured, generally, however, covering the value of such property in excess of any other insurance. Occasionally a claim must be checked to determine whether it includes property at a location not covered, or loss in excess of the limit stipulated for the location.

Appraisals. Appraisals of personal-property losses will be discussed in connection with the different groups of such property that are the subjects of sections following.

Final Papers. The documentary evidence submitted by the insured in support of his claim should be forwarded to the insurer when the adjustment has been completed. Exceptions may be made when there is a valid reason for the insured to retain originals. In this case, copies or abstracts will suffice.

In cases involving total loss of valuable articles such as pieces of jewelry, fur coats, or power shovels, the original invoice, bill of sale, or other paper evidencing purchase, possession, or value should be forwarded. In losses requiring an inventory, the inventory should be forwarded.

In small losses a statement of the loss or the inventory itself may be written on the proof of loss.

If the loss has been determined by appraisal, the original award should be included in the final papers accompanying the adjuster's report.

Household Furniture. The usual articles found in a home are covered under policy forms describing them as "household and personal property." The old description "household furniture" is still the term ordinarily used by underwriters.

Household furniture is encountered by the adjuster in dwellings of all sizes from cottages to castles, in apartments, privately furnished hotel suites, and occasionally elsewhere. Shipments and lots of household furniture are from time to time destroyed or damaged while in transit or stored in warehouses.

The articles of personal property commonly found in homes can, with

few exceptions, be consumed or reduced to junk value by fire. Most of them can also be broken, scratched, torn, or crushed in the confusion of a hurried removal when endangered. Such removals are frequent in unprotected areas but seldom occur in cities. Small articles are often lost in the ashes or debris of destroyed or severely burned dwellings.

Photographs, sheet music, books, and some foodstuffs are susceptible to direct damage by water. Once thoroughly wet, they become worthless. Almost all kinds of household effects, if left without attention after being wet, will suffer further damage, with the exception of glassware, china, crockery, some cooking utensils, and articles made of stone or other minerals.

Wood furniture, picture frames, violins, guitars, pianos, the wood cases or parts of sewing machines, radios, television sets, and phonographs will warp or crack if they are water-soaked and not promptly cared for. Bedding, draperies, linen, rugs, and wearing apparel will mildew or rot if wet and not dried, unless the temperature is quite low. Iron or steel articles will generally rust if allowed to remain wet and exposed to the air. Water-soaked motors of refrigerators or washing machines will require rewinding or replacing unless baked.

In windstorm areas the contents of homes are scattered by tornadoes, crushed by wind-wrecked buildings, or exposed to rain by damage to roof and walls.

In gas-heated homes the furniture and furnishings are at times damaged by explosions, many of which have occurred in territories where natural gas is the common fuel.

Faulty operation of oil-burning heating equipment often covers the contents of a home with smoke. Such occurrences are sometimes described as smudge damage.

Falling aircraft and vehicles out of control damage homes and cause breaking or crushing of the contents.

Household-furniture losses range from trivial damage, such as cigarette burns, to destruction of the contents of lavishly and expensively furnished palace dwellings.

Household furniture is generally encountered as useful property in an active home, but at times as stored property with an uncertain future.

Measure of Loss. The value of useful furniture, furnishings, and clothing replaceable, if destroyed, is the cost of replacement less depreciation.

The actual or replacement cost of new articles can often be established by paid bills or inquiry at the stores where the purchases were made. An adjuster who regularly handles household-furniture losses should keep informed as to the cost of the articles of furniture, furnishings, clothing, and household appliances that he commonly encounters.

The loss to a damaged article is the cost of restoring it to its condition before the damage, or the difference between what it was worth before it was damaged and what it was worth after being damaged, whichever is less. Repairs often improve an article. If so, the amount of the betterment must be deducted from the cost of repair.

The value of articles that cannot be replaced, such as antiques or works of art, is what they could be sold for. Their value is, therefore, a matter of expert opinion. The amount of loss that results from any damage to them is also a matter of expert opinion.

Depreciation. The large pieces of household furniture, the beds, dressers, tables, sideboards, and cabinets, depreciate slowly. Lately they have been designated as hard furniture to distinguish them from soft or upholstered furniture. Upholstered furniture depreciates faster than hard furniture. Wear and tear on it are greater, and the deterioration of the silk, wool, flax, cotton, or synthetic fibers in the cloth proceeds at a more rapid rate than does the deterioration of wood. Good silver depreciates only to the extent that it is worn away by cleaning or polishing, becomes out of date, or is damaged. China and glassware depreciate as the result of chipping, breaking, or change in style. Genuine Oriental rugs, made in the days of vegetable dyes and cold-water dyeing, wear well and give long service. Their machine-made imitations and other machine-made floor coverings depreciate much more rapidly. The life of all floor coverings is greatly affected by the wear they receive. They will last much longer in spacious homes occupied by small families than in crowded quarters where there is frequent going in and out. Draperies depreciate slowly unless the dye is inferior and fading takes place. Table linens depreciate rapidly if constantly used and frequently washed. Garments, headgear, shoes, and other wearing apparel disintegrate under the wear and tear of use, washing, and cleaning, and also lose value as styles change. Many flimsy pieces of ready-to-wear apparel will not last through a single season.

Attics, basements, and other storage space in homes are often filled with articles on which depreciation is very high.

The Insured's Story. In the small and moderate-sized losses, which make

up about 75 per cent of all household-furniture losses, the insured's story will ordinarily be an accurate and honest account of a mishap in or to the home. It may have been the careless disposal of a lighted match or cigarette butt, an electric iron left in circuit, grease taking fire on the stove, or fire escaping from a furnace or fireplace. It may be a story of sparks igniting a shingle roof, or a windstorm damaging the building and admitting rain. The story should check to the appearance of the damaged pieces of furniture, rugs, drapes, clothing, bedding, or other articles. In many losses, details of the story will be confirmed by fire or water marks on walls and ceilings. After telling the adjuster what happened, the insured will state or indicate his or her ideas about the value of the articles involved and the amount claimed. Generally the articles can be valued with a fair degree of accuracy, and the damage is such that the adjuster is competent to estimate it properly.

In many of the larger losses, the insured's story and the appearance of the property will check as they do in most of the small losses.

Household furniture, however, produces a number of difficult claims, and in support of some of them the insured's story will put the adjuster on notice that he must carefully examine the evidence offered by the insured and also search for other evidence that will confirm or controvert what the insured says as to the cause of loss, existence of articles not in evidence, value, or damage.

Stories of scorches by lighted cigarettes, electric-light bulbs, electric irons, or other appliances left in circuit, or by getting articles too close to stoves, fireplaces, or other devices utilizing fire will often include a statement that the damaged tablecloth, garment, drape, or other article was seen to blaze. Similar stories are told when appliances, motors, radios, or other articles operated by electricity have been damaged by short circuits or overloads. These stories forewarn the adjuster that he must determine to his own satisfaction whether the damage resulted from hostile fire or from overheating.

In some homes leaky roofs permit damage to the contents by rain or melting snow, and occasionally such damage is reported as windstorm loss. Sometimes the insured tells of rain flooding his basement during a windstorm and wetting the furniture he has stored in it. Loss due to rain water running in off the ground is not covered under windstorm insurance.

In some losses the insured's story will describe the destruction of clothing, linen, drapes, rugs, or other combustible articles and state a value

that will, in the adjuster's opinion, be utterly out of keeping with the appearance of the premises, the neighborhood, or of the insured himself. Hearing such a story, the adjuster will expect the insured to present an inventory that he will say was made from memory and that will give the adjuster a difficult task when he tries to verify or disprove it. Pictures, stamp collections, and at times manuscripts will be listed as lost, and there will be no physical evidence of their existence and no convincing documentary evidence of either their existence or their value.

Stories are at times told of eyeglasses, fountain pens, dentures, or other small articles lost in the confusion attending a fire or windstorm, or of valuable jewelry that has disappeared under similar circumstances. Such stories raise questions of existence, value, and cause of loss, questions that can be very difficult.

Stories of lost heirlooms, antiques, inherited articles, or wardrobes of deceased members of the family prepare the adjuster for troublesome problems of valuation.

Identification and Check of Coverage. In cities, towns, and other areas under protection of efficient fire departments and adequate water supply, the great majority of household-furniture losses caused by fire are small, and the dwellings, apartments, or other structures housing the furniture are not badly damaged. Identification is, therefore, a simple matter and is done without formality. The adjuster goes to the address given him by the company or agent and asks for the insured or a member of the family who shows him the damaged articles. Except when two or more persons occupy the same living quarters and each carries insurance, there is no difficulty experienced in making identification. Owners generally buy only one policy, a situation that makes check of coverage easy.

In expensively furnished homes, jewelry, furs, pictures, and other high-valued articles are often covered specifically by policies that do not cover the ordinary furniture, furnishings, and wearing apparel of the family. When handling losses in such homes, the adjuster should identify the specifically covered articles so that they will not be inadvertently included in the claim under the household-furniture policy or policies.

When the holder of household-furniture insurance is the owner of the dwelling he occupies, any overlapping of dwelling-and-contents insurance should be treated as provided for in Guiding Principles.¹

¹ See p. 226.

In dwellings not under fire-department protection, there are many total household-furniture losses, and the adjuster finds nothing tangible to identify except the debris of noncombustible articles. Tornados sometimes demolish a dwelling and blow away the furniture. In such instances identification is made by location and the statements of the insured.

Establishing Interests. Practically all household-furniture forms cover property belonging to the insured and any member of the household. Householders rarely hold as bailees articles belonging to others except articles being purchased under contracts of conditional sale. Ordinarily, the contracts make the buyer responsible in case of loss by fire, theft, or other peril commonly insured against. The practice of buying on installment, deferred-payment, or budget plan is almost universal, and the merchants and manufacturers who sell on such plans rarely carry any insurance on property held by customers, except on high-valued articles. As a consequence, the loss on articles bought under such plans ordinarily falls under the household-furniture insurance of the buyer. The adjuster should, however, check the contract of sale when dealing with such articles.

Property belonging to guests and servants is often covered under household-furniture forms. When it is, the coverage is direct and no question of bailee liability arises.

Some household-furniture losses occur in warehouses where the furniture is on storage. Warehousemen who store household furniture almost always stipulate in the contract of storage that they are not responsible for fire damage. The stipulation, however, does not relieve them from liability in case fire damage results from their negligence. In handling a household-furniture loss in a warehouse, the adjuster should investigate the cause and inform himself of any facts indicating negligence on the part of the warehouseman.¹

Examination and Survey. In the ordinary household-furniture loss in a protected area, examination and survey are as informal as is the identification of the property. In almost all such losses the two steps are combined. When entering the home, the adjuster notes the general quality and arrangement of the furniture, and when he hears the insured's story and

¹ Such losses, also losses occurring in laundries, cleaning establishments, and tailor and furniture-repair shops and covered under the 10 per cent extension provision of household-furniture policies are discussed in Chap. 16.

is shown the damaged articles, he sees whether they are burned, scorched, wet, broken, or soiled. He quickly decides whether to discuss the amount of loss with the insured or suggest that the articles be repaired by the furniture man, upholsterer, or other qualified person to whom the insured would ordinarily send them.

In total destructions of homes in unprotected neighborhoods, the adjuster looks at the site as the insured tells his story and tries to recognize in the ashes or debris the remains of anything noncombustible that the insured may mention.

In large and complicated losses, when a home of many rooms filled with expensive furniture has been badly burned, examination and survey include a roof-to-basement inspection of the building and, frequently, a tour of all outbuildings to which any articles may have been moved for preservation.

If a tablecloth or scarf has been discolored by a lighted cigarette that has rested on it but no hole has been burned through, it is reasonable to believe that there was no ignition of the fabric. Cigarette marks on table-tops or other articles of wood furniture are not evidence of ignition. But when a hole has been burned through a piece of cloth, there is a strong presumption that ignition occurred. The same general statements apply to scorches from electric-light bulbs and pressing irons left in circuit.

Electrical injuries to radios, refrigerator motors, and other appliances using electricity are almost never true fires. If there are no markings indicating that combustible material, other than the insulation, ignited, the reasonable presumption is that there was no damage by fire.

When a movable oil stove has smoked up the furniture and furnishings, the stove should be examined. If the flame did not burn below the wick and into the oil chamber, there was no hostile fire.

When windstorm insurance is involved and damage has been done to furniture or furnishings by rain, an opening made in the wall or roof of the building by the force of the wind must be found, otherwise it will be evident that the building leaked, or the rain came in through an open window or ran in from the ground. Windstorm insurance does not cover in such situations. Neither does it cover damage caused by water leaking through a hole or crack in the roof caused by the falling of ice or ice-incrusted branches from overhanging trees. The new additional extended cover, however, insures against such a loss.

When damage has been done by high water, there will often be telltale water marks on the walls of the building and sometimes on the furniture or other personal property. These should be noted by the adjuster. In important losses, the height of the water marks should be measured and recorded.

Dwellings along the seacoast or adjacent to rivers subject to overflow are occasionally washed away by waves accompanying a storm or floated off by high water during a flood. In such situations there is no liability under windstorm insurance and, if claim is made, the adjuster must try to establish water levels by marks on other property.

Choice of Method of Adjustment. Most household furniture losses are settled by agreement after the insured and the adjuster have examined the property, checked over the inventory, or made up an inventory jointly, or after the one or the other, sometimes after both, have had an expert examine it. In many small losses, the insured will be instructed to replace the destroyed articles or have them repaired, with the understanding that claim is to be made for the amount of the bill, less any depreciation on articles replaced or less a credit for any betterment if a repaired article is in better condition after repair than before it was damaged.

Search for Missing Articles. It is rarely necessary to search for missing articles after a fire loss. Sometimes, however, the insured will be quite positive that valuable jewelry was in a room that was completely burned out. When such is the case, the ruins should be carefully searched for the jewelry.¹ Anything that is noncombustible and claimed by the insured as lost in a fire should be in the ruins and should in most cases be found by a careful search.

Following fires that do not destroy the premises, the insured will occasionally note that valuable articles have disappeared from places that were not reached by the fire. Such disappearances are generally due to theft, which is easy to conceal during the excitement attending a fire, but they are occasionally due to removal by some well-intentioned person who sought to save the article from being destroyed. Articles stolen during a

¹ The author adjusted a loss with a well-to-do country doctor under whose direction a patient yardman had sifted the ashes where the bedroom had stood and had found every piece of the wife's jewelry that she had put in a dresser drawer when she left the house a few hours before the fire.

fire are seldom recovered. Liquor is often pilfered and drunk while the fire is in progress. Articles removed often turn up when the persons who removed them recover from the excitement of the fire.

Tracing Articles Removed from the Premises. In serious losses, pieces of furniture, silver, draperies, clothes, and other articles are frequently moved during or immediately after the fire and taken to a place of safety. Removed articles should be traced, located, and examined, otherwise they may be later inventoried as destroyed, to the detriment of the insurer or, if damaged, omitted from the inventory to the detriment of the insured.

Making Property Accessible. In seriously damaged dwellings, access to some of the contents may be cut off by burned-out stairways or collapsed roofs or floors. The cost of temporary repairs necessary to make the furniture accessible, particularly to save it, should fall on the household insurance. The cost of removing building debris should fall on the building insurance, as the debris must be removed before the building can be repaired. In either case the cost is part of the loss and is subject to the provisions of any contribution or coinsurance clause in the policies.

Protection from Further Damage. Refrigerators that have been put out of operation should be cleared of food that will spoil and foul them. In closely built-up areas where no yard space is available but where laundry and cleaning service can be had, wet bedding should be taken off beds and sent to the laundry or dry cleaner as soon as possible. Wet draperies, linens, and wearing apparel should be treated in the same fashion. Before going to the cleaners, wet carpets and rugs should be swept clean of any broken plaster or other pieces of debris that may have fallen on them. Where there is yard space that can be used, mattresses and pads taken off beds should be spread out on boards or on clean grass and turned over as soon as the surface exposed to the sun becomes dry. Extra clotheslines may be strung about the yard, and blankets, sheets, spreads, draperies, and garments hung up so as to get the maximum effect of sunshine and wind. Care should be taken with rugs and carpets. They should be spread out flat or hung up by one edge to dry. If they are hung over lines, the lines will leave marks that will never disappear.

Books, pictures, sheet music, and sporting and traveling equipment should be wiped off and spread about, in or out of doors, to dry. Wood furniture should be wiped dry. Metal furniture, sewing machines, and mechanical appliances should be wiped dry and oiled to prevent rusting.

Radios, television sets, phonographs, pianos, clocks, and other articles of like susceptibility to damage by neglect should go to competent repairmen as soon as possible.

If there is enough floor space available in portions of the dwelling, apartment house, or other structure in which the loss occurred that are safe against the weather, much of the work of protecting the property can be done on the premises. If the roof has been burned through, immediate roof repairs, temporary covering with tarpaulins, or temporary repairs with tar paper may be advisable. If the entire roof is gone, it may be advisable to remove the property to another building.

Separation and Putting in Order. If the work of protecting wet household articles from further damage is properly handled, the damaged and undamaged articles will be separated as the work proceeds. If the damaged articles are not worth saving, they should be put where they will not endanger undamaged property because of their damp or dirty condition. Charred articles will smut anything they touch, and mildew starting in wet susceptible articles will, in warm, damp weather, spread to other wet or damp articles of similar nature in the immediate vicinity. Total-loss articles must be kept until they have been inventoried and their value agreed upon. Property that has undergone removal needs sorting and matching up of separated parts, such as replacement of drawers in dressers, setting up of bedsteads, and assembling of sets of books. If part of the contents of a home is saved by removal and the rest burns, the work of putting what is saved in the best possible order eliminates the uncertainty of whether specific articles were burned in the fire or are hidden in the salvage.

If the loss has been caused by removal only, and the house escaped injury or has been made safe and habitable after the fire, the furniture should be wiped off, moved back, and set up just as it was before the fire. If only part of the house can be made safe, the furnishings of each room should, as far as possible, be kept together when moving them into the available space.

Inventory. If the furniture and other furnishings are in the rooms where they belong, the inventory may be taken by listing in some logical order the contents of each room. Much time will be saved in the adjustment if the inventory is taken in some definite order. Most inventories of property in sight are checked against the articles when the adjuster examines the

property. Therefore, the entries should be in such order that the adjuster, when checking them, can pass from article to article with the least possible delay or inconvenience.

If the property has been moved to a warehouse or other place of temporary storage, it may be well to list the furniture proper as one group, floor coverings as another, pictures as a third, bedding as a fourth, linen as a fifth, clothing as a sixth, china and glass as a seventh, and to make such other groupings as may be necessary to facilitate the work.

If much property is to be inventoried, numbered tags should be attached to each article or set. The property should then be listed in numerical order, as this will greatly facilitate the checking of the inventory, or the finding of any article that needs special study or attention.

If the property is a total loss, the inventory may simply enumerate each article, or set, and give the actual or replacement cost of each. But if the inventory is to include damaged articles, the amount claimed on each should be shown in a separate column. Double-column paper is desirable for taking inventory.

Preparation for Adjustment. In the great majority of household losses, no special preparation is necessary. The amounts involved are small, the losses are free from complicating circumstances, and the adjuster knows enough about the values and characteristics of the property that has been destroyed or damaged to discuss adjustment at his first meeting with the insured. A typical instance is the loss resulting from the damage to an upholstered chair by the match or cigarette of a careless smoker. There will be a hole burned through the fabric and into the padding. The chair will require an upholstering job, the extent of which will depend upon the ability of the upholsterer to match the fabric and do his work in a way that will make the chair look as good after the repair as it did before it was damaged. The adjuster will know from his experience with other chairs in the same territory that the cost of the work should be about so many dollars and, after hearing what the insured has to say, will give his own estimate of the cost. If the chair is to be completely done over, he will suggest an amount to be deducted from the total cost because of the betterment, unless the chair is a new one and no betterment will be made. Any differences of opinion will be ironed out, and the loss will be settled.

There are, however, many household losses that are attended by cir-

cumstances that make them difficult or complicated, and there are some of doubtful honesty. If he is to handle these losses as he should, the adjuster will find it necessary to prepare himself in considerable detail before he can make an intelligent decision on the disposition that should be made of any given claim and on how he should proceed in order to have the best chance of success.

In occasional losses, the household possessions involved will be difficult to value; in others, difficult to repair or restore. In many losses questions of depreciation on total-loss articles or betterment on repaired articles will be serious. In a few losses, the adjuster will have reason to believe that much of the property for which claim is made, perhaps all of it, never did exist except in the imagination of the claimant.

Household possessions are generally accumulated over a period of time during which things are bought, made in the home, inherited from persons who have passed on, or received as gifts. Ordinarily no record is made of the acquisition of the possessions. Only in a few homes is there any effort made to keep inventories of the contents. In some of the expensively furnished homes, which are a very small percentage of the total number of homes, the owners will have appraisals listing and valuing the contents. It is a rare occasion when the householder whose possessions have been completely destroyed by fire or other peril can list in correct detail the property that he has lost.

With the passage of time homes have, in the past, tended to accumulate a substantial number of articles that were set aside because they were no longer needed or because something that was more needed took their place. As a consequence, attics, basements, and storerooms are often filled with these set-aside articles. Indefinite plans for some future use of them, a dislike of seeing them carried off by the trash collector, and sometimes a sentimental desire to keep them cause the owners to hang on to them. If they are lost or damaged, the insured and the adjuster will very frequently have radically different ideas as to their value.

Facilities for repairing damage to furniture and furnishings have not expanded with the growth of the population. Consequently, there are many instances where it is difficult to find a repairman who will undertake to repair or refinish damaged household articles. It was particularly difficult to do so during the war period when the mechanical talent of the nation was demanded by war work. Use of mass-production methods

does not encourage the repair trades, and many articles that were commonly repaired in years gone by are now, if damaged, replaced with new ones.

Many policyholders resent being called upon by fire or other accident to make any expenditure on their own account, even though they will benefit from it. The renovation of a damaged article may make it decidedly better than it was before. The upholstered chair can again be used as an example. It may have been worn and due for reupholstering within the next year or two. Yet, in many instances, the insured owner of such a chair will insist that the cost of the work, even though all of the fabric on the chair is being renewed and the frame is being completely refinished, should be borne by the insurer, arguing that he was satisfied with the chair as it was and is no better off with the renovated chair than previously.

Because many things in a home, notably clothing, linens, bedding, draperies, and pictures, can be completely destroyed by fire without leaving any evidence of quality or quantity, the unscrupulous claimant will often present an inventory of out-of-sight articles the stated value of which will be many times greater than the value actually destroyed.

The preparation that should be made before taking up the adjustment of any difficult, complicated, or doubtful loss will depend upon the circumstances that are responsible for the particular problem or problems presented by the loss.

When the property is in sight and can be identified and properly described when inventoried, the problem will be one of value or damage.

The kinds of property that produce most of the problems of value are antiques, statuary, oil paintings, engravings, etchings, rare books, specially made furniture, draperies and tapestries, tailor-made suits, and coats and dresses made by expensive dressmakers. Oriental rugs, imported laces, linens, glass, and ceramics are also hard to value. The preparation necessary when such property is involved is to have the article or articles examined by an expert, preferably with the adjuster participating in the examination. The expert's opinion should ordinarily be incorporated in a written report which will be available for use when later discussing adjustment with the insured.

Problems of damage call for examinations and estimates or bids from

laundrymen, dry cleaners, rug and carpet cleaners, upholsterers, furniture repairers, radio, television, or other technical servicemen, electricians, and perhaps others. Unusual problems make it necessary for the adjuster to find experts capable of restoring damaged paintings, repairing costly violins, reweaving holes in rugs, tapestries, laces, or garments, rehabilitating a damaged piano, or rebinding a rare book.

The problems of value that are generally encountered in connection with the ordinary kinds of replaceable furniture, furnishings, clothing, and other articles arise because of differences of opinion as to depreciation and, occasionally, as to cost of replacement. The only real preparation for an argument over depreciation is an examination of the property and a notation of where and how it shows signs of wear, tear, or other deterioration, or of the details of it that show whether it is out of date or in style.

Wood furniture should be examined for deterioration of surface finish indicating lack of care or age, for scratches or other marrings, for cracks, loss of handles or pulls of drawers. Upholstered furniture, rugs, and carpets show wear by becoming threadbare. The armholes of men's suits should be examined, as age will be indicated by wear and stain. Ornate brass bedsteads are out of date, as are marble-top tables, though the latter are in vogue as antiques.

The contents of basements, attics, and storerooms should be studied in order to differentiate between articles relegated to them because of disuse and articles like bathing suits and tennis racquets that are used in the summer and skis and rubber boots which are used in the winter but which, between seasons, must be retired from the active space in the home.

When the adjuster suspects that a claim made for out-of-sight articles is exaggerated, perhaps to the degree of listing property that never was in the insured's possession, preparation should include a request of the insured that he produce for examination any bills, contracts, or canceled checks covering purchases of any of the articles listed. The history of the property should be developed. The insured should be questioned as to when and where he bought it, what he paid for it, and how he made the payment, by check or by cash. It may be well to question other members of the household and any neighbors or visitors who are willing to talk. Careful attention should be given to physical conditions. Debris should

be examined for remains of the property and the premises examined for markings tending to prove or disprove its existence or destruction. Sometimes none of the buttons, buckles, casters, locks, or other indestructible pieces that should be left in case of destruction by fire can be found. Sometimes the space that the insured claims was used to keep the articles before the loss will be found, on measurement and calculation, too small to hold them. In closet fires, hangers may show that they held nothing when the fire occurred. In some such fires, there will be no scorching or smoke markings of the interior of the closet, indicating that the garments were partly burned somewhere else and then hung in the closet to support a claim. Care must be taken when considering the evidence offered by debris. Pieces of a half-dozen picture frames will justify the inference that six pictures were burned, but they will not indicate whether the pictures were valuable or worthless.

In questionable claims for out-of-sight property, it is advisable to make inquiry into the insured's financial condition and past income and also to compare his claim with his other possessions, if he has any. There should ordinarily be some consistent relation between what the insured owned immediately before the loss and his income or resources at the time he acquired it.

In cases that threaten to produce litigation, notes made by the adjuster and reports made by experts will be useful. Photographs will be particularly useful.

Check of Claim. Household claims rarely include articles not covered. When they include articles mentioned in Guiding Principles¹ and are presented by the owner of the dwelling in which the loss occurred, it is well to check them against the building claim.

Appraisals. Appraisals of household losses have not shown regular results. They have been particularly erratic on out-of-sight property. Experienced adjusters seldom arrange to appraise such losses. On property in sight, there is a fair chance for an equitable award.

Final Papers. The insured's inventory, original or duplicate bills, or contracts covering installment purchases are the supporting papers that should ordinarily accompany reports on household losses. Any estimates or reports made for the adjuster should go forward with his report. In case of appraisal, the award should be forwarded.

¹ See p. 226.

Fixtures, Equipment, and Supplies. Fixtures, equipment, and supplies as found in stores, offices, and other business risks may include any of the following:

1. Fixtures, counters, shelving, bins, showcases, paneling, railings, signs, awnings

2. Mechanical fixtures, soda fountains, bars, stoves, boilers, scales, meat slicers, lighting fixtures, fans, refrigerators, refrigerating and air-conditioning systems

3. Furniture, tables, chairs, desks, file cases, cabinets, safes

4. Furnishings, floor coverings, rugs, carpets, linoleums, draperies

5. Equipment, trays, boxes, baskets, sign holders, dishes, glasses, knives, forks, spoons, tablecloths, napkins, typewriters, adding, calculating, and other business machines, surgical instruments, dental equipment, cameras, enlargers, projectors, transits and levels, tools, implements, hammers, saws, scoops, books, maps, catalogues

6. Supplies, stationery, inks, mucilage, pencils, pens

Some years ago the practice began of combining coverage of any betterments and improvements made by a tenant with that of the furniture and fixtures covered by his policy. As a result, coverage often now includes in addition to the kinds of property listed:

7. Improvements and betterments of a tenant

All seven kinds of property are subject to destruction or damage by perils commonly insured against or to deterioration if left uncared for after wetting. The movable articles are subject to scratching, marring, or breakage in case of hurried removal when endangered.

Fixture losses range from small damage, such as the scorching of a desk when the paper in a nearby wastebasket takes fire from a carelessly discarded match or cigarette, to the total destruction of the equipment in large mercantile or office structures.

Measure of Loss. Fixture and equipment values are ordinarily estimated or agreed upon according to replacement cost less depreciation. The loss on damaged articles is determined by the cost of repair with deduction for any betterment.

Depreciation. Heavy articles, such as counters and shelving, depreciate slowly. Depreciation on mechanical equipment and floor coverings is quite rapid. Improvement in mechanical equipment is going on at such a rapid rate that much loss in value is due to obsolescence, even though a

machine in use functions properly. Stationery and supplies are usually worth the cost of replacement unless they are out of date or have been carelessly stored or handled.

If the books of a business are investigated in connection with a claim on furniture and fixtures, the adjuster will generally find that an accounting depreciation has been charged against them that is quite at variance with the actual depreciation. It is good accounting to depreciate fixtures as rapidly as the income-tax authorities will permit, so, in many businesses, the book value of fixtures will be far below their actual value. In a going business, replacements and additions generally prevent the fixtures as a whole from depreciating more than 25 or 30 per cent.

The Insured's Story. In connection with fixtures and equipment losses, the insured's story is generally fairly well supported by the appearance of the property and the premises. The story becomes important when the property is unusual and difficult to value. In the great majority of fixtures and equipment losses, the adjuster will encounter property of standard design that can be valued by getting replacement-cost quotations from reputable manufacturers, but in losses involving such property as specially made draperies and decorations it is necessary in almost all cases to learn from the insured something about its origin and history. The same is also the case in connection with many installations of fixtures and equipment put in by one owner and afterward acquired by another.

Under the improvements-and-betterments coverage of fixtures and equipment items, it is highly important to have the insured state what he will claim on property covered under his insurance, which might otherwise be covered under the insurance of the building owner. If informed as to the improvements-and-betterments claim, the adjuster handling it can compare notes with the adjuster handling the building claim and, generally, prevent any double payments on improvement items.

Identification and Check of Coverage. Identification of fixtures and equipment is rarely difficult. Check of coverage is usually made to find out whether clothing, tools, or other personal property of owners, officers, or employees is included, and property otherwise insured is excluded. When fixtures and equipment insurance is held by the owner of a building who occupies it, any permanent fixtures covered under the building insurance must be identified so that they will not find their way into

the claim under the fixtures and equipment insurance. When fixtures and equipment insurance held by a tenant includes coverage of betterments and improvements, efforts should be made to agree upon what items of repair are to be charged against the tenant's insurance and what against that of the building owner.¹

Establishing Interests. In bowling alleys, bars, grills, delicatessens, shoe-repair shops, and butcher shops, the adjuster will often find that such things as bowling alleys, balls and pins, bar fixtures, juke boxes, computing scales, meat slicers, shoe-stitching and sanding equipment, and refrigerating equipment have been bought under contracts of conditional sale. Dental engines, dentists' chairs, X-ray equipment, infrared and diathermic apparatus, and other devices in the offices of dentists, doctors, and technicians will also often be found subject to such contracts. Almost always, these contracts make the purchaser liable for loss by fire, and there is generally little for the adjuster to do beyond determining the insured's liability.

Examination and Survey. When going into a store or office to make the first inspection of a reported loss, the adjuster may find that a small fire has scorched a few articles of furniture, all of which can be repaired and made as useful and presentable as before the fire. The articles will not require protection from further damage, and it will not be necessary to rearrange the other furniture or fixtures while they are being repaired. In such a situation, examination and survey are limited to a look at the articles. No formal survey and examination are necessary when damage consists of nothing more than locks broken by firemen or slight wettings of fixtures or equipment caused by dripping of water used to extinguish fire on an upper floor.

In serious losses, however, examination and survey must cover all of the property covered by the fixtures and equipment insurance and in some instances all other contents of the building and the building itself. Preservation of the fixtures from further damage may require some contribution by the fixtures insurer to the cost of making the building weathertight and some contribution from the stock insurer toward the cost of moving property within the premises so as to make the fixtures accessible. Some fixtures will be found to be total losses and should be inventoried and moved out of the way so that salvage operations or building or other repairs can pro-

¹ Compare with what is said about machinery, p. 334.

ceed. Some fixtures should go out to repair shops, and others should be protected in place until repairmen can begin work on them. In some losses, it is important that debris be held undisturbed until it can be carefully examined, inventoried, and, perhaps, photographed.

Choice of Method of Adjustment. In losses on fixtures and equipment, articles such as typewriters and business machines are almost always sent out for repairs. Other articles are generally inventoried in place and the loss agreed upon.

Making Property Accessible. Fixtures and equipment are occasionally made inaccessible by the burning out of stairways or the crippling of elevator service, sometimes by the flooding of basements or the collapse of walls or floors. Access to any that are worth the cost of saving must be planned according to conditions.

Protection from Further Damage. The work of protecting movable furniture, fixtures, and other furnishings should follow the general plan outlined for household furniture. Special attention, however, must be given to wet or exposed mechanical fixtures and equipment. It is often advisable to urge the insured to bring in repairmen to inspect such fixtures as soda fountains, motor-driven refrigerators, or air-conditioning systems, and to send wet typewriters or other business machines out for prompt overhauling.

Separation and Putting in Order. Generally, there is not much separating or putting in order required when only fixtures or pieces of furniture are involved. Desk drawers that have been pulled out should, as soon as they are dry, be put back. If draperies have been taken down or rugs rolled up and removed, they should be laid out in orderly fashion. Light equipment, dishes, knives, forks, spoons, and table linen in a restaurant, for example, require real putting in order if they are to be inventoried accurately. Stationery and supplies should be promptly separated, otherwise the dampness in the wet articles will affect the dry. Envelopes with gummed flaps must be given preferred handling. If the flaps stick, the envelopes become so much scrap paper.

Inventory. An inventory of fixtures and equipment in sight is generally best made in some geographical order so that a check of the inventory against the property will be easy. In small stores all the fixtures can be seen from any spot, and order is not so important as in the large establishments where the fixtures, furnishings, and equipment are distributed over several floors and floor divisions.

Inventory descriptions should be concise but accurate so that any entry can be checked with assurance against the article it describes.

New fixtures and equipment can often be priced from purchase invoices or installation contracts. Old articles must generally be priced according to the estimated cost of replacement. In large mercantile establishments, the books will include a fixtures account which will be helpful with newly purchased fixtures but will give little help with the old ones.

In a few mercantile establishments, fixtures and equipment inventories are made at regular intervals. Such inventories are of great help in making an inventory following a loss.

Almost all chain stores are supplied with illustrated catalogues, known as fixture books, which show pictures and prices of the standard articles of equipment used by the chain.

When a store is destroyed and all fixtures and equipment are out of sight, an inventory must be made from the record of purchases shown by the books or from the memory of the insured or the employees, unless the insured can produce an inventory made before the loss. In the absence of such an inventory, it may be necessary to make up floor plans of the fixtures and obtain estimates of the cost of reproducing them from manufacturers.

Preparation for Adjustment. Preparation for adjustment is generally limited to getting in hand estimates of value and loss or cost of repair. When fixtures require intricate wiring and piping connections, special attention should be paid to these and estimators cautioned to compare notes with the building contractor and not include building wiring or plumbing in the fixture estimate. When betterments and improvements are involved, it is advisable to learn what work will be included in the building owner's claim so that double payment may be avoided.

Check of Claim. Fixtures and equipment claims occasionally include wiring and paneling that should be part of the building claim. They should be checked for such items.

Appraisal. Appraisals of fixtures and equipment losses usually result in equitable awards.

Final Papers. Final papers should consist of the insured's inventory, a copy or abstract of the fixtures account, and any estimates secured from dealers or repairmen. On mechanical equipment, hurried out for repair before the setting in of rust, details of the bills, or at least their totals,

should appear in the adjuster's statement. In case of appraisal, the award should be forwarded.

Machinery. So many machines are now in use and so many combinations of machinery are necessary for economical production in the various industries, that it is impossible to list all the articles that might be covered by insurance describing machinery. Any article or mechanism used in the production, distribution, or use of power would be included.

Machinery is generally made fast to the floors, walls, or ceilings of the structure housing it. Machines are ordinarily constructed of metal parts. There are, however, many that combine metal, glass, porcelain, stone, leather, rubber, cloth, or other materials in their make-up.

All machinery is subject to direct fire damage, breakage due to falling timbers or other debris, and deterioration following wetting or exposure unless properly handled. Massive machinery will sometimes go through severe fires with little damage. Enough heat, however, will reduce any machine to scrap value, particularly if water is played on it while hot, the sudden contraction often cracking the metal. All metal parts expand under heat and, if expansion and cooling are not uniform, the parts may be badly warped. Parts made of aluminum or brass melt at lower temperatures than do iron or steel parts, and the babbitt metal in bearings melts at a still lower temperature. Stone, porcelain, and glass parts crack under heat. Belts, aprons, rolls, and sieves made of leather, fabric, rubber, or cloth burn easily.

Explosions break or bend the parts of machines, sometimes by direct force, sometimes by showering the machine with missiles. Windstorms destroy or damage machines, generally by wrecking the structures housing them and by throwing debris on them. Large traveling cranes and bridges, such as are used in coal- and ore-loading operations, are at times toppled over by windstorms and badly damaged.

Water from leaking sprinkler systems, broken service pipes, or rain or snow entering a building through roof or walls ruptured by fire, wind, or other peril, does direct damage to vulnerable machine parts such as the cloth of a carding machine, and causes rust on metal parts if not wiped off. In low areas the machines in a plant are occasionally covered by water during a flood. The same situation is sometimes found in basements when great quantities of water are used to fight a fire in the upper part of the building.

Much damage is done to generators, motors, and transformers by a combination of electrically generated heat and subsequent burning of insulation or oil. Some of this damage is due to lightning, some to improper operation of generating, distributing, or utilizing arrangements, and some to accident.

Measure of Loss. Machinery values are ordinarily estimated or agreed upon according to replacement cost, less depreciation. The loss on damaged machines or equipment is determined by the cost of repair with deduction for any betterment.

Depreciation. Wear and tear, rust, corrosion, and metal fatigue are the principal causes of deterioration in machinery. The invention of new and more efficient machines is the cause of obsolescence. In the competitive markets of today, the manufacturer whose machinery is worn or out of date cannot expect to survive, and the average useful life of machinery tends to become shorter. Depreciation of machinery proceeds, therefore, at a rather rapid rate.

On heavy machinery that is properly cared for, the wear and tear may be very little. A few years ago, the author observed the working of a hoisting engine at Wilkes-Barre, Pa., that had been built in the 1870s and was still giving perfect service. The Dewitt Clinton, one of the first American-built locomotives, was overhauled by the New York Central Railroad and made one of the exhibits in the Hudson-Fulton celebration, when it pulled its three-car passenger train as well as it had done 100 years before. Care and repair had kept both the hoisting engine and the locomotive from deteriorating, but the invention of better models long ago made both obsolete.

On machinery that operates with noise and shock, wear and tear will generally be great. Machinery that handles coal, stone, or ore is an example. Woodworking machinery, grinding machinery, and mixing machinery also tend to wear out rapidly.

Boilers, pipes, tanks, and pumps often suffer from rusting or corrosion because of the water or other liquid they must handle.

All metal parts that are subject to stress or shock tend to develop metal fatigue.

Machinery that is kept clean and properly oiled and greased will depreciate less rapidly if regularly operated under normal load than if allowed to stand idle. Rust is more dangerous than friction.

Obsolescence is unpredictable. Sometimes in whole industries the important mechanical units lose value overnight because machinery makers put on the market competing units that cost less or are more economical to operate. At present, the steam locomotive is being displaced by the diesel.

Age is the general guide in estimating depreciation. Many tables have been compiled by students of depreciation who have attempted to determine the average useful life of different kinds of machines and from the average produce an annual rate of depreciation. These tables are of great usefulness, but the adjuster handling machinery losses must keep in mind the fact that depreciation due to wear and tear will vary according to the varying degrees of care that different operators give to their machinery. Some factory managers are good housekeepers, others are not; consequently the machinery in one plant will be depreciated less than in another of the same kind and age. Conditions of use must be considered as well as age.

Depreciation as shown by books of account is not always a true reflection of the actual depreciation of the machinery. The tax authorities have prescribed rates of depreciation that manufacturers may charge against their various kinds of machinery when making up, for tax purposes, a profit-and-loss account of the year's operation. These rates are, in a sense, arbitrary, as they apply, without variation, to all manufacturers in the same industry. Depreciation computed according to these rates will not reflect the effects of any special care or lack of care for the machinery of a given plant. Book depreciation is generally higher than actual depreciation. In some instances a machine will be written off the books as 100 per cent depreciated when it is still in service and perhaps highly efficient.

Pattern losses produce troublesome questions of depreciation. In the absence of records that clearly show the use of the patterns in a plant, it is difficult to separate the active from the obsolete. A "live" pattern may be worth the full cost of reproduction, but a "dead" pattern has only junk or kindling-wood value.

Standby machinery is, in some instances, outmoded. If so, its depreciation will be great. Used parts held as possible spares are generally heavily depreciated, often presenting the same depreciation problem as patterns.

The Insured's Story. In the general run of machinery losses, one or more machines or pieces of equipment will have been damaged by fire, broken in one way or another, or wet. There will be nothing unusual about the

cause of the loss or the nature of the damage and no unusual problem of repair. Consequently, all that the adjuster will need from the insured will be a brief statement of what happened, what the insured thinks will be necessary in the way of replacement or repair, and how much the work will cost. The damaged machinery will be in evidence, and its appearance and the appearance of the premises can be compared with what the insured says about the cause of the loss, its nature, extent, and probable amount. Most of the losses on machinery occur in plants that are operating and involve equipment that is useful and active. In such losses replacements and repairs can ordinarily be made without difficulty by local repair or service shops at reasonable cost. The adjuster, therefore, will not often find it necessary to ask the insured to go into great detail in his story or produce his records covering the machinery.

In the unusual losses, however, the insured's story will guide the adjuster in his approach to the situation and indicate what circumstances must be investigated and what questions will probably be difficult to handle. In many of these losses, the adjuster will find it advisable to develop the story at length and in great detail by discussion and questioning. In some instances, the insured should be asked to support or amplify his story by producing for examination whatever records he may have that cover the acquisition, construction, use, or maintenance of the machinery.

When cause of loss is, or may be, doubtful, the story should include the insured's knowledge or belief as to the cause. Cause of loss is often doubtful in the situations outlined in the following paragraphs.

Damage to motors, generators, transformers, and other pieces of electrical equipment is often caused when the wiring, switches, or other parts that act as conductors of the current when the equipment is operating are heated, sometimes melted, by electrical action. Heat of dangerous degree is generated only when the conductors are overloaded. As a result of the heat, the combustible gum and fabrics that make up the insulation of the coils, cables, and wires are frequently set on fire and blaze or smolder for several minutes, perhaps longer, after the circuit has been broken by the melting of a conductor or by the opening of a switch or circuit breaker, and the current has ceased to flow. Overloads causing electrical injuries or disturbances result from lightning, failure of insulation, accidents that cause short circuits, switching mistakes, improper operation of equipment, and perhaps other causes.

Standard fire policies covering machinery include the peril of lightning but not that of electrical injury. The forms attached to such policies generally contain a stipulation (1) that the insurer shall not be liable for electrical injury to electrical equipment or wiring, or (2) that it shall not be liable for any such injury unless fire ensues and then only for the fire damage, or (3) in connection with power stations and utility risks, that it shall not be liable for such injury unless fire ensues but if fire does ensue, it shall be liable for both the electrical injury and the fire damage.

The scorched or burned insulation of a damaged generator, motor, or other piece of electrical equipment will speak for itself, but the questions of whether the damage was the result of lightning or of overload due to some other cause and whether fire ensued must be considered in the light of what the insured has to say about what happened and what he or his employees or associates saw or heard or afterward found out. In many power plants a record of operations is kept in a log book which the insured should be asked to produce for examination in support of his story covering any loss involving the equipment.

Damage to bearings that run hot or belts that stick and are worn thin by pulleys are at times accompanied by fire, and claims are presented for the costs of repair or replacement. The insured's story as to the length of time that belt or bearing was in trouble before flame appeared may disclose that its value had been destroyed before it caught fire and, therefore, that the insurer is not liable for the loss.

Damage to ovens and driers that use the direct heat of gas, oil, or other fuel is at times caused by overheating and ignition of the contents. The insured's story as to operation and the quantity of the contents will be a guide to ascertaining or estimating whether any part of the damage was due to overheating before the fire occurred or whether all of it was a result of the fire.

When claim is made for fire damage to a boiler that is found empty after a fire, the insured should be asked to state whether it contained water before and during the fire. The shell and tubes of a boiler are rarely damaged by fire unless the boiler is empty. If there was a rupture or explosion of the boiler, the insured's statement as to the time of the explosion should be taken. Explosion of a steam boiler, unless caused by hostile fire, is a peril excluded by the fire policy. If the boiler is on the insured premises, the explosion peril is also excluded by the Extended Coverage Endorsement.

In glassworks and metal smelting plants serious damage is at times done by molten cullet or metal when furnaces break and the incandescent mass flows over the floor, setting fire to inflammable materials and causing damage by reason of its heat. Unless the insurance contract contains the molten-glass-or-metal clause, the insured's story as to the cause of the break must be developed. In the absence of this clause, the heat damage will not be covered unless the break was the result of fire. Such damage is at times serious, as molten cullet or metal flowing around the base of a steel column may soften it and possibly cause displacement of whatever the column supports.

When containers or vessels fail under pressure, and claim is presented under the explosion provision of the Extended Coverage Endorsement, the insured should be asked whether the failure was sudden and violent and accompanied by noise. An answer in the negative indicates that there was no explosion.

In cases of building collapse due to a peril insured against, the insured's statement as to what machines were in the structure and where each was located is a necessary preliminary to planning the work of salvaging them. The same is true when mining machinery is involved and has been buried or cut off by cave-in or by seals built for the purpose of smothering a mine fire.

When machinery is in sight, its condition at the time of loss will generally be evident, but if it has been lost or so badly damaged that its condition cannot be determined with certainty, the insured should be questioned in a way that will develop whether the machinery was old or new, in good repair or run down. In some losses, whether the machinery is in sight or out of sight, the question of value must be approached by leading the insured to outline the history of the machinery, stating when and how it was purchased or built, how it had been used prior to date of loss, and whether it had suffered any previous damage or developed any unusual troubles. It may be well to ask the insured to supplement his history by stating whether the machinery, at time of loss, was useful, valuable, efficient, and in regular operation, or whether it was experimental or idle, or equipment used only in emergencies. In some instances, the story should be even further developed to cover the insured's plans for the future use of the machinery, based on his ideas of what it would be worth to him in competition with others in the same industry. The story should include his

opinion as to replacement cost, depreciation, and actual value, expressed in general terms and subject to the presentation of his formal claim.

Finally, the story should include his opinion as to the extent of loss or damage, the possibility of repairs, and the probable cost of making them. Occasionally, the story will forewarn the adjuster to expect an exaggerated claim, as the insured will state that the bearings in the machines have lost their temper or that other damage has been sustained, as a result of which he will be satisfied with nothing less than a total loss.

When the loss is unusual or doubtful, the insured should be asked to support his story by producing for examination his accounting, engineering, and operating records.

Identification and Check of Coverage. Identification of pieces of machinery specifically covered is generally made by checking the number of the machine. Identification of the machinery covered under a machinery item or a blanket item in a fire policy is made according to location. Identification is ordinarily an easy task.

Check of coverage is usually made to determine whether personal property of owners, officers, or employees is included, or property otherwise insured is excluded. In some territories, the New York metropolitan area being one of them, forms used for covering machinery are the same as those used for covering fixtures and equipment. When machinery insurance is held by the owner of a building who occupies it, any machinery used for the service of the building must be identified so that it will not find its way into the claim under the machinery insurance. When machinery insurance held by a tenant includes coverage of betterments and improvements, efforts should be made to agree upon what items of repair are to be charged against the tenant's insurance and what against that of the building owner.¹

Whenever there is separate insurance on building and machinery, the subjects of wiring and piping become important, because electricity, gas, and water are often brought into a building from the outside and carried by wires and pipes that are parts of the building to various points from which they are distributed to the machines that will utilize them by other wires and pipes that are parts of the machinery. Adjusters speak of "building wiring and piping" and "power wiring and piping."

Check of coverage should include any business interruption or extra

¹ Compare with what was said about fixtures and equipment, p. 325.

expense insurance, as either kind may, in many instances, be called upon to bear part of the expense of protecting or handling the property.

In some groups of machinery there will be machines owned by the insured and others that he leases. When dealing with such groups, the adjuster should determine whether the leased machines are covered as well as the others. In many instances they are separately insured.

Establishing Interests. A substantial number of machines are purchased from manufacturers on a deferred-payment plan or with funds advanced by a finance company. Until the purchaser makes the last payment, title to the machine remains in the manufacturer or in the finance company. Often such machines are specifically covered by separate policies written in the name of the purchaser with loss payable to the manufacturer or the finance company. In some instances the manufacturer or finance company will carry blanket or floating insurance covering unpaid balances. Printing presses and typesetting machines, power saws and planers, traveling cranes, and a variety of other machines are, because of the method of their purchase, held by the shop or plant as bailee. In case of loss, the legal or contractual liability of the bailee must be established.

In some industries, notably shoe manufacturing and canning, much of the machinery is leased and always remains the property of the lessor. The leases under which it is operated stipulate who shall be responsible for loss or damage, and a large proportion of such machinery is covered by insurance held by the lessor.

Many vendors and lessors service the machines they sell or lease and in case of damage are prepared to make repairs at reasonable cost.

Machines for temporary use are occasionally brought into manufacturing plants and afterward sent to other plants. As an example, a special machine designed for grinding the heavy rolls of large paper-drying machines is rented from time to time by paper mills as the surfaces of the rolls become pitted and rough. The owner of the machine maintains a crew that operates it, and the mill pays shipping charges and wages and expenses of the crew.

Examination and Survey. In the ordinary machinery loss, the insured or some person familiar with the property shows the adjuster the machine or machinery involved and points out to him the visible evidence of damage or demonstrates that it will not operate or that its operation is faulty. While doing so, he generally tells the adjuster how the damage was

actually or probably caused and, in many instances, expresses an opinion as to what will be necessary in the way of replacement or repair, how it should be done, and what it will probably cost. The adjuster listens, examines the machine or machinery, and notes the markings that indicate the cause of the damage and whether it is slight or severe. Fire damage will be evidenced by the metal parts that have been melted, fused, warped, or discolored; explosion damage, by parts that have been shattered, broken, bent, or displaced; and water damage by the presence of water or rust. The degree of damage is generally shown by the requirements for reconditioning them or the necessity of replacing them. After noting the damage, the adjuster will, in many instances, find it advisable to go through the premises and examine any burned, scorched, or smoked parts of the building, or water stains on walls or ceilings. If the loss was due to water from a broken service pipe or a leaking sprinkler system, he will examine the pipe or the system. He will look over the machinery in the rest of the shop, factory, or plant to get an idea of how well it is kept in repair and to approximate the total value of the property if the insurance is subject to average, coinsurance, or contribution. In the ordinary machinery loss, examination and survey require very little time or effort. The adjuster quickly gets in mind the circumstances that require consideration and is ready to begin adjustment negotiations or is prepared to tell the insured what must be done before an adjustment can be made.

In machinery losses that are outside the ordinary class, examination and survey require thought, time, and effort according to the kind of property involved, how it was damaged, whether the damage is slight or serious, and, in some instances, because of the insurance covering it.

Examinations of damaged motors, generators, and other pieces of electrical equipment, made for the purpose of finding out whether the damage was the result of electrical injury or disturbance or of fire, are probably the most numerous of the examinations that adjusters make of machinery for the purpose of determining cause of loss. The appearance of the windings of a damaged motor and sometimes of the other parts that are conductors of the operating current will indicate very clearly in many instances the effect of the heat of the current in the conductors or of any fire that may have occurred in the insulation. Excess current can generate a very high degree of heat, high enough to melt any metal. The degree of heat generated by the burning of the fabrics and gums, out of which insulation cover-

ing wires is made, is relatively low, not high enough to melt copper. If, in the examination of a damaged motor or generator, the adjuster finds fused or melted wires or other conductors, he will know that their damage was due to electrical action.

Examinations of heat-utilizing equipment and devices in order to determine whether they have been damaged by hostile fire or by overheating from the flame, current, or other medium used in their operation are probably next in the number of examinations made to determine cause of loss. The test of hostile fire is combustion outside of the limits in which friendly or useful fire is intended to burn. If, therefore, in the examination of a damaged oven or drier the adjuster finds melted or warped metal parts, but no residue of combustible material inside the oven or nearby, he will know that the loss was caused by overheating and not by a hostile fire. In some losses resulting from the discharge of water from a sprinkler head, the insured will have given notice of loss to the companies carrying his fire insurance and also to those carrying his sprinkler leakage insurance. His story will be that the head opened because of the fire in the forge, furnace, or other fire-using device underneath the sprinkler head. In such a situation, the adjuster must examine the device and its surroundings for indications of any fire outside of it that might have been responsible for the rise in temperature that opened the head. If there was no hostile fire, the cause of loss was sprinkler leakage.

When claim is made under windstorm insurance for the blowing over of a metal smokestack, the stack should be examined with particular attention to the thickness of the metal along any lines of breakage as contrasted with the thickness it had when new. Rust or corrosion due to gases generated by the burning of the fuel used in the furnace or firebox may have destroyed so much of the metal that the toppling or breaking of the stack was the result of its weakened condition and not the result of windstorm.

If claim is made under explosion insurance for loss resulting from the rupture or bursting of a pipe, tank, or other container of liquid, the adjuster should examine all piping leading to and from the place of rupture or bursting and establish whether it was used solely for handling liquids. Rupture due to hydraulic or hydrostatic pressure is not an explosion.

Following destruction or damage by fire of a building housing machinery, an examination of the various machines and pieces of equipment should be made and the evidences of damage noted. While in many in-

stances it is advisable to have an engineer or other expert pass on the question of damage and possibility of repair, the adjuster should form an opinion of his own based on what he sees. Serious fire damage to machinery is quite evident. When all metal parts are found to be melted, fused, or warped, their subjection to a high degree of heat is indicated, and the machinery will ordinarily be a total loss. When iron or steel parts are found to be covered with scale, they will ordinarily have to be discarded unless they are extremely heavy. Scaling indicates great heat. When bright surfaces of iron or steel are found to have turned yellow or blue, a lesser degree of heat is indicated. In some instances the degree of heat to which a machine has been subjected can be approximated after careful observation of the immediate surroundings and an examination of the small parts of the machine itself, also of the grease cups and the bearings. If the paint on a nearby wall is not blistered, if the needles, teeth, or other small parts of the machine are not out of shape, if the babbitt in the bearings is not melted and the grease is still in the cups, it can be assumed that the degree of heat was not great. Such observation and examination should be made when the insured claims that a machine had been damaged by heat but the machine, itself, shows no evidence of damage. A claim of this sort frequently made is that certain parts of the machine have had the temper drawn. Such a claim calls for an examination of the parts, a determination of what kind of metal they are made of, and what were the processes by which they were produced. Cast iron, machine steel, and wrought iron, for example, do not take tempering. In many instances, the only parts of a machine that have been tempered are the springs. Another claim of this sort is that parts of the machine have been warped and have pulled moving parts out of alignment. Such a claim calls for examination of the machine by an expert who can test it and make gauge measurements if necessary.

When claim is made because of explosion or windstorm, machinery should be examined for breakage, dents, bending, and displacement.

In some pieces of machinery, notably turbogenerator sets, the working parts are enclosed and cannot be examined unless the machine is opened up. Other machines of various types must, in many instances, be dismounted or disassembled after being damaged before any real examination can be made of them.

In severe building damage, machinery is at times buried by falling walls or the debris from the roof and upper floors. Occasionally it is dropped to lower floor levels or into the basement by failure of the floor supports. In

such cases the machinery should be examined, if access can be had to it, to see whether it is worth the cost of special efforts to recover it or should be left until it is reached in the work of removing the building debris.

In many losses a survey must be made of the building to see whether roofs and walls are weathertight or will no longer give protection from rain or changes of temperature. Basements, when flooded, must be checked for pumps, motors, or submerged equipment. In some losses, floor beams or other supports will have been weakened, and a survey should be made to determine whether it is advisable to shore the floors and keep the machinery in place while the building is being repaired or to move the machinery to another building.

When large numbers of tools, dies, or spare parts have been wet, the premises should be surveyed to see whether a place can be found to clean and grease them.

When insurance is subject to average, coinsurance, or distribution clauses, and there are no property records or appraisals that can be relied upon to show the total value, a survey should be made of all undamaged machinery so that the adjuster can get in mind the value he is dealing with and decide whether he can safely accept a lump-sum estimate of the undamaged value or must require that it be formally inventoried.

Choice of Method of Adjustment. The great majority of losses on machinery are settled on estimates of the cost of making repairs or replacements, with consideration of betterment in case of repair and of depreciation in case of replacement. There are, however, many losses, large and small, that are adjusted by having repairs made and checking the cost. Losses involving motors and generators are almost always adjusted by this method; losses on linotypes and other typesetting machines, except in cases of destruction, can rarely be adjusted in any other way. Many losses suffered by large industrial organizations that maintain their own machine shops are so handled, and generally to the satisfaction of both insured and insurer. In losses that involve business interruption insurance, when business can be saved by speedy resumption of operations, immediate repair of the machinery is often necessary. In the policies of almost all the public utilities, specific permission is granted the insured to begin repairs immediately after loss.

Recovering and Making Accessible. Following severe damage to buildings, piers, platforms, or other structures housing or supporting machinery, machines or equipment may be dropped into basements or into rivers

or harbors, or may be covered by debris. Questions then arise as to what shall be done to recover them or make them accessible. The cost of recovery or opening the way will, in many cases, be relatively high if the work is pushed as an independent operation and relatively low if done in connection with the removal of the structural debris. The value of the machine out of place or inaccessible, the need for it, and the rate at which it will take on rust or other damage unless cared for must be given consideration.

Expense incurred by the insured in recovering machinery and making it accessible becomes an item of claim to the extent of the value saved, if there is no business interruption insurance involved; under such insurance, to the extent that the business-interruption loss is reduced. As a part of any claim under insurance covering the machinery, the expense is subject to contribution or coinsurance. Under business interruption insurance, however, it falls under the provision for expense to reduce loss and is, therefore, not subject to such limitation.

Protection from Further Damage. The great majority of machinery losses are of small or moderate size. In handling them, the adjuster ordinarily finds, on his arrival at the premises, that the insured has already done what is necessary to protect the property from further damage. In a printing establishment, for example, a fire originated in loose paper near a press and ignited the grease and paper on the press, which burned briskly. In extinguishing the fire enough water was thrown on the press to wet it thoroughly. When the adjuster arrived the next day, he learned that, as soon as the excitement in the place due to the fire and the arrival of the fire department subsided, the printer and his employees stripped the press of all wet paper, wiped it dry, greased its bright metal parts, and swept the water and wet paper off the floor. By keeping the place warm and airing it at intervals, it was dried out in a minimum of time. In such a case, the adjuster will find that the press will suffer no further damage and can proceed at once to go over it with the printer and possibly agree upon the amount of loss then and there.

In serious losses, however, following fire, explosion, windstorm, flood, sprinkler leakage, service-pipe break, or other casualty, the adjuster will generally find when he arrives that the machinery is subject to further damage due to rust, clogging of the machines by the material in process, or breakage from collapse of weakened parts of the structure, unless protective steps are taken.

In some losses the building must be made weathertight and the machinery cared for on the premises. In others, the building will be so badly damaged that it must first be made safe by pulling down dangerous walls, heavy beams or timbers, or by shoring and bracing, after which the machinery must be removed to a place of safety. In other cases, the condition of the building will have no bearing on the situation, as the condition of the machinery itself will determine whether it should remain in the building and be protected there or should be removed. Temporary covers, sometimes nothing more than tar paper, at other times, substantial timber and board structures, must, after some losses, be placed or built over machines and remain there until the building has been put in good shape.

When machinery that was in operation at the time of loss is filled with stock in process, and the stoppage of its operation will result in its becoming clogged with the material, or rusty because of water in the material, the stock should be promptly removed from the machines as a preliminary to cleaning and possibly greasing them. Machines that mold chocolate candy are examples of the kind that may become clogged, as the warm candy that passes through them will harden when it becomes cool. Looms and knitting machines are examples of machines that may be rusted because of the wetting of stock in process. Unless promptly stripped of wet thread and cloth or knitted products, rusting will be serious.

Wet belts should be taken off pulleys and cleaned of all dirt. Aprons of cloth that absorbs water should be removed from machines and dried.

Wet machines should be wiped as dry as possible and, if safe against rain or the drip of water from upper floors or broken pipes, should, with the exception of motors or generators, be liberally slushed with heavy cylinder oil to prevent formation of rust. If there is danger of further wetting, a heavier grease is necessary. Lubricating grease or compound will, in such situations, give the maximum protection. Spare parts and small tools may be put into wire baskets and dipped into barrels of oil for quick greasing.

Electric motors or generators that have not been submerged and do not need to be sent to a repair shop equipped to bake them should be cleaned of dust, charcoal, or fallen plaster and covered with tarpaulins if there is danger of further wetting.

Greasing should be done with special attention to milled, ground, or polished iron or steel surfaces where smoothness is essential. Ordinary

rusting will do no damage to cast-iron frame members of a machine, but great damage will be done by rust if it pits the surface of a roll or plate that has been milled or ground to do precision work.

Wet machines with small and delicate parts should be dismantled as quickly as possible to facilitate the work of checking rust. In many cases the parts should be dropped into kerosene as soon as they are taken out of their mountings, then scoured and afterward kept in a thin lubricating oil until they are assembled into the machine. A wet linotype or knitting machine will be undamaged if promptly taken apart, dried, cleaned, greased, and assembled. Left uncared for until rust has made the small parts stick together, the same machine will require much labor to recondition it, and some of the parts will be found so roughened by pitting that new ones will be required.

On machines that are generally sent out for repair as soon after damage as they can be handled, the work of protection from further damage and the work of repairing and reconditioning are often combined. Electric motors that have been under water are often promptly removed from their bases and sent to a repair shop for cleaning and baking. Voltmeters and other panel instruments are generally handled in the same way.

Separation and Putting in Order. Because of their fixed positions there is no separating to be done with machines. Spare parts, tool dies, and other such movable articles should be matched up and grouped or lotted so that counting will be easy.

Inventory. An inventory of machinery should be made in such order as to permit checking with a minimum of difficulty. Generally, the only descriptions necessary are the names of the machines—looms, bandsaws, lathes, drill presses, and such. In serious losses, however, engineers will frequently give specific descriptions and machine numbers that will enable an office staff to take prices from manufacturers' catalogues or write the manufacturers for replacement prices with assurance that their letters specify the machines involved and will bring the proper answers.

In many plants, cards are maintained for each piece of machinery, giving the manufacturer's machine number and description, date of purchase, cost, and, frequently, also the cost of transportation and installation. When such cards are available, a very accurate machinery inventory can be made. In plants that do not maintain cards, a machinery inventory will sometimes be found and almost always a machinery or equipment

account. Such an account is generally of little value except as a guide to dates when equipment was purchased and, therefore, to the dates of invoices that should be looked up. Some machinery accounts give practically no help toward pricing an inventory and no indication of the value of the machinery in the plant. If the original machinery invoices have been discarded, the account will, ordinarily, be of little help.

If the equipment is too badly burned or broken to permit the making of an inventory that will be accurate in count and descriptions, it may be advisable to employ an engineer to make a floor plan, locate the machines on it, and list and price the machinery from whatever evidence he can develop. When a building of two or more stories is destroyed, the machinery debris may be so badly broken and mingled as to make a physical check impossible without the help of persons who were familiar with the machinery.

An inventory intended to reflect actual cost or replacement cost of machinery in place should be noted to show whether the prices are f.o.b. at points of shipment or include transportation and installation costs.

Preparation for Adjustment. In the ordinary machinery loss, the adjuster seldom finds it necessary to make any special preparation before discussing adjustment. He listens to the insured's story, examines the machine, satisfies himself that the loss is one that is covered by the policy, and begins to check the damage. If the loss should be one that he does not wish to settle on his own judgment, he will employ a repairman or engineer to make an examination and prepare an estimate or report, or, in some instances, he will call on the representative of the manufacturer of the machine for an opinion. The adjuster who handles a number of losses on the same kind of machinery will become proficient in estimating the cost of repairs and, on the usual run of losses, will only occasionally need outside help.

In serious and unusual machinery losses preparation is always necessary. In many losses all that is required is the employment of a competent expert to examine the property and report in detail on value and loss, keeping himself available for conference should the adjuster need more information or, perhaps, help in his discussions with the insured. In some losses, however, the situation demands the joint efforts of adjuster and expert if effective preparation is to be made.

Preparation may require a review of the insured's story with the request that it be put in writing. It may be advisable to abstract, copy, or photo-

stat any financial, property, or operating records covering the machinery. Ordinarily, however, a study of the machinery itself is the most important part of the work of preparation. Accurate descriptions of the machines should be written up, all evidence of damage should be recorded in notes, and, when advisable, photographs should be made. Specific identifications of machines, such as manufacturer's name, machine number, power or capacity rating appearing on name plates or stamped on the frames, can be graphically recorded by tracings, rubbings, or plaster-of-paris impressions.

There are two kinds of machinery losses that require that preparation include a study of the history of the machinery. The one is the loss involving secondhand machinery; the other, experimental machinery. Both kinds of machinery can be most troublesome subjects of adjustment because of the difficulty of valuing them.

Check of Claim. Machinery claims should be checked for possible inclusion of wiring and plumbing that should be part of the building claim, also for any expense items that should be part of the building, stock, or business-interruption claim.

Appraisals. Appraisals of machinery losses have not, in the past, been so satisfactory as building appraisals; but if machinery is in sight and a competent appraiser is to be had, the adjuster should not hesitate to appraise after efforts to adjust differences have failed.

Final Papers. Final papers should include the insured's statement or inventory, the originals or copies of any bids to repair or replace, an extract of the machinery account, if examined, and the bills for any repairs made. Estimates or reports made by machinists or engineers and presented by the insured in support of the claim, or made by experts employed by the adjuster, should, invariably, go to the insurer. In case of appraisal, the award should be forwarded.

Farm Equipment and Produce. The equipment and produce to be found on a farm will be determined by the section of the country and the needs of the particular branch of farming. Cattle ranches, wheatlands, fruit orchards, cotton plantations, dairy farms, poultry yards, and farms that combine the production of grain and livestock will be differently equipped. The principal classes of equipment and produce are (1) plows, harrows, drills, reapers, binders; (2) spades, shovels, hoes, rakes, axes, mattocks, carpenters' tools; (3) wagons, carriages, sleighs, sleds; (4)

harness, saddles, ropes, stakes, tarpaulins; (5) separators, aerators, milk cans, bottles; (6) incubators, brooders, coops; hay, fodder, ensilage, feed, straw; cotton, flax, hemp, wool; (7) baskets, crates, packing and shipping material; (8) building material, supplies, wood, fuel; (9) horses, mules, cattle, hogs, sheep, goats; (10) chickens, turkeys, ducks, geese, guineas, pigeons; (11) hides, eggs, dairy products. There is a growing use on farms of motor-driven equipment, such as tractors, harvesting machines, threshing machines, power saws, and other mechanisms.¹ Trucks and motor-driven vehicles are not considered in this section as they are covered by special policies.

Farm buildings are usually of frame construction, seldom under protection of fire departments, and often without occupants or visitors for hours at a time. These conditions combine to produce a high percentage of total losses to the contents, fires seldom being discovered until too late to be controlled by bucket brigades, even if an ample water supply and a number of hands are available. Water damage to the articles is seldom suffered unless they have been removed from the building and rain has fallen.

Implements, tools, vehicles, and equipment are almost invariably reduced to scrap when the building housing them burns. Food, fiber, dairy, and poultry products will generally leave nothing but ash heaps. Livestock is consumed more slowly, the bones of all but the smallest animals remaining in evidence.

Many farm animals are killed in the open each year by lightning.

Much damage is done to equipment and produce by windstorms, as tornadoes often tear farm buildings apart and scatter or even blow away their contents. Equipment can generally be recovered and repaired, as spare and repair parts are usually available in the community or through mail-order houses.

Measure of Loss. Equipment values are ordinarily estimated or agreed upon according to replacement cost less depreciation. The loss on damaged articles is determined by the cost of repair with deduction for any betterment. Produce values are fixed according to the net amount the farmer would have received for the produce if he had sold it on the day of the loss. In some situations the cost of handling and making ready for sale is considerable.

¹ See section on Machinery, p. 328.

Depreciation. Wear and tear, rust, or mildew are the principal causes of depreciation in farm equipment. The rate of wear and tear on equipment used in planting and harvesting operations is high even when the equipment is well cared for. Depreciation due to rust and mildew is generally the result of neglect. In many cases there is so much to do on the farm and so few hands to do it that equipment cannot be cared for as it should be.

The Insured's Story. In many farm losses the insured's story will include a definite statement as to cause, such as sparks from the kitchen chimney or from a fire in the yard or nearby, possibly backfire from a tractor or truck, sparks from an old-style steam-engine threshing machine, or lightning. In many, however, the cause will be a matter of opinion, perhaps spontaneous ignition of hay, perhaps carelessness of a smoker in the hay barn. Many policies covering farm property prohibit the use of open fires or lights in barns and outbuildings, and the use of kerosene- or gasoline-heated incubators or brooders, unless written permission is endorsed on the policy. If anything leads the adjuster to believe that loss was due to a cause excluded by the policy, the insured's story becomes important and should be checked against the appearance of the debris and tested by questioning. Stories attributing the loss to trespassers should be listened to critically, as such stories are at times concocted by the insured in connection with fires that have been set for the purpose of collecting insurance. Stories attributing origin of fire to lightning are at times told to cover the willful burning of a barn.

It is advisable to have the insured tell the part of his story that covers what was destroyed while he and the adjuster are at the scene of the destruction. If the property for which claim is to be made was, according to the insured's story, housed in a building, the adjuster should ask the insured to describe the burned structure so that the adjuster can judge whether it was large enough to hold the quantity that the insured says he will list in his claim. If the insured says the property burned in the open, he should be asked to measure or check the fire markings on the ground if they do not support his story.

When produce has been destroyed, the insured should be led to make a definite statement as to its grade or quality, particularly when he describes his produce as being above the average of that of his neighbors. In support of his statement as to the quantity of any produce, he should be questioned as to the acres of ground from which it was harvested, if it was a

crop; the number of hens, if it was eggs; or the number of cows, if it was milk or butter. When livestock has been killed, the insured should be asked about the age, condition, and health of the stock.

When claim is to be made for property covered by an item that includes other locations and is subject to a distribution clause, the insured should be asked to state where all of the undamaged property covered by the item was located at the time of loss, and whether it is still so located and can be inspected and checked.

Identification and Check of Coverage. When farm equipment or produce is destroyed or damaged while in a building, the procedure of identifying it as property covered by the insurance is limited to checking the description of the building, or its number or location according to plan or diagram, when one is referred to in the policy, and then checking the property against any exclusions that are embodied in the item or the form. If, for example, the insured's story describes the loss as occurring in barn 1 and involving a number of farm machines, implements, and lots of produce, it is the adjuster's task to satisfy himself when making his survey and examination that the building was or is the one described in the policy. The item covering the contents may exclude motor vehicles or tractors and, in some territories, wool, tobacco, hops, or dressed animals.

When equipment or produce outside buildings is involved, it is necessary to check the form for limitations as to distances, if any, as some forms provide coverage on property in the open within 50 feet of a specified building, or 200 feet, according to the custom followed in the territory. Livestock is ordinarily covered against loss by lightning while on the owner's premises or elsewhere in the open.

Identification of all property covered by an item is necessary when the item is subject to the prorata distribution or livestock prorata clause.

Check of coverage is made by examining the policy or policies after making inquiry into the possible existence of specific policies covering property such as tractors, livestock, or turkeys, all of which are often covered by specific policies.

Establishing Interests. Much farm equipment is purchased on a deferred-payment plan, but generally under contracts of sale that make the purchaser responsible for loss by fire or other casualty. Contracts covering equipment not fully paid for should be examined.

Many farms are occupied by tenant farmers who are paid a salary and

receive a certain percentage of the crops. The tenant is usually permitted to keep and feed off the land and crops one or two cows, perhaps a horse, several hogs, and from 50 to 100 chickens; occasionally, the tenant owns all equipment and livestock on the farm and pays the landlord a percentage of the crops as rent. In losses involving tenant farms, the respective interests of landlord and tenant may have to be established by discussions with both parties.

Protection from Further Damage. Ordinarily, there is little to be done in the way of protecting farm equipment and produce from further damage other than putting under shelter such property as may have been saved or left after the fire or windstorm has spent itself. In some cases there will be wet property that should be spread out where it will dry, or wet machines that should be wiped or greased. Livestock suffering from burns or scratches should receive immediate attention. If animals have been killed by lightning, prompt skinning will save the hides.

Fire, smoke, and water damage to farm produce usually renders it worthless except for fertilizer. In case of damage by windstorm, long feed, that is, hay or straw, is sometimes rendered unfit for use because large quantities of nails and splinters have been mixed with it. Usually, however, much of it, together with grains, can be saved by drying. Fruits, vegetables, and dairy products that have been wilted or soured can sometimes be made available for hog feed.

Examination and Survey. Damaged implements, tools, and machines should be examined to determine whether they can be repaired at a cost that will be justified by their future usefulness. Damaged produce should be examined to determine the possibility of saving all or part of it by drying, sorting, or otherwise treating it. The remains of total-loss articles and the residue of destroyed produce should be observed and, in some cases, studied carefully, particularly when their appearances do not agree with details of the insured's story or when they indicate a possible breach of policy conditions.

If animals that, according to the insured's story, were killed by lightning have not been buried or otherwise disposed of, the adjuster should check them for superficial burns, singeing of the hair, or indication of instant death, such as a tuft of grass still held clenched in the teeth of a cow or a horse. Any dead animal should be examined, or at least superficially looked over, for symptoms of disease.

A survey of the farm will acquaint the adjuster with the facilities it offers for repairing damaged equipment or salvaging damaged produce. It will also suggest to him where he should look for values that should be included in items subject to prorata-distribution or similar clauses, and give him an idea of how the equipment on the farm has been cared for and what has been the grade or quality of the produce.

Choice of Method of Adjustment. Losses on farm property are almost always settled by discussion and agreement. There are only a few losses, principally those involving mechanical equipment, in which adjustment is made by allowing the property to be repaired or reconditioned and checking the cost.

Value and loss may be agreed upon after a formal claim has been made by the presentation of a detailed inventory, but more often, farmer and adjuster discuss pieces of equipment and lots of produce and try to agree on value and loss as they go along. Experts are seldom used on farm losses, hence it is essential that such losses be handled by adjusters who have had enough contacts with farm life to be informed about farm property. There is a rough relation of equipment and produce to the acreage of a farm and the crop or crops cultivated. With this relation in mind, the adjuster can generally form a reasonable opinion of the value he is dealing with and can discuss it intelligently.

Separation, Putting in Order, Inventory. Separation of damaged and undamaged property is generally made in the process of protecting it from further damage. Destroyed equipment can generally be identified by metal pieces left in the ruins. These should be sorted, if they are numerous, and should be the basis used for establishing the quantities recorded in the inventory. Harness and gear should be matched up in order to check on what may be missing. Plows, spades, vehicles, harness, creamery equipment, and poultry-raising equipment leave identifiable remains after the burning of the building in which they are housed. After tornadoes they will generally be scattered or buried in the debris of the building. They are rarely blown away.

The carcasses of farm animals killed by fire can generally be counted. After severe fires, the skeletons of cows and horses will be found, but the smaller animals, calves, sheep, hogs, and poultry will often be consumed. They will have to be inventoried according to the insured's memory. Produce such as grain, cotton, hay, or tobacco will burn to ashes. It, also,

will generally have to be inventoried from memory. Some highly developed farms maintain reliable book records of produce on hand, but these are the exceptions.

As a rule, the quantity of produce is estimated by calculating the cubic feet in the lofts, bins, or cribs and comparing the storage capacity shown by the calculation with the testimony of the farmer or his help as to what was on hand at the time of the fire. Additional evidence as to quantity will be the acreage devoted by the farmer to the different crops, the productivity of the land, and the average yield throughout the vicinity during the season in which the crops were raised. Consideration of all these circumstances should determine the maximum quantity of any kind of produce on hand immediately after the harvest. Deduction should be made from this maximum for any sales made or for consumption by the family or the animals. The remainder should then be compared with the farmer's original statement of quantity on hand. Consumption of feedstuffs can be roughly calculated from the numbers of the different kinds of animals being fed. This consumption will vary with the seasons and with the pasturage available.

Preparation for Adjustment. Because many farm losses are settled on the day that the adjuster first sees the property, there is ordinarily no time for making any special preparation for the adjustment. It is, therefore, essential that the adjuster who is to handle farm losses regularly shall be familiar with the prices that farmers must pay for equipment and the prices that they are currently receiving for their produce.

Many farm losses occur at points far from stores or supply houses where prices can easily be checked. If the farmer's dwelling has not been destroyed, a mail-order catalogue that will help with articles of equipment will generally be found. Market prices for produce are almost always to be found in the local papers. From produce quotations listed in these papers, there must be deducted handling, bagging, transportation, and, on hay and straw, brokerage and bailing charges, in order to arrive at value on the farm. The few cases of damaged equipment may require an occasional estimate from a repairman, but not ordinarily. If a farm machine is damaged, the farmer can usually show by a catalogue what the parts to be replaced will cost and can make a fair estimate of the time needed to make repairs.

Check of Claim. The checking of farm-equipment and produce claims is principally directed toward finding out whether proper application has

been made of such clauses as the prorata-distribution clause, the livestock prorata-and-limit-of-liability-for-livestock clause, and any percentage-limitation clause that may be part of the policy or policies.

Appraisals. The author cannot recall any claim on farm property requiring an appraisal. As the majority of disagreements as to amount of loss are based on disagreements as to the quantity of produce on hand, it can be assumed that appraisers would be as uncertain of their positions as are the adjuster and the claimant.

Final Papers. Farm losses seldom develop many papers. Frequently the insured does not prepare any inventory, but on the arrival of the adjuster recounts from memory the equipment and produce lost, and the adjuster lists the items. In such cases the adjuster's statement or inventory is all that should accompany the proof and the letter reporting on the loss. Any inventory prepared by the insured should be forwarded and, if any farm records were made the basis of the adjustment, these should be commented on and a copy of the pertinent entries sent. If the loss involves livestock and the carcasses were disposed of before the arrival of the adjuster, he should secure from any veterinarian who may have inspected the carcasses an affidavit, stating the number of the animals and the estimated value of each.

Libraries, Schools, Churches, and Art Galleries. The contents of libraries, schools, churches, and art galleries may be divided into two classes: (1) bookcases, chairs, tables, desks, pews, altars, organs, seats, cabinets, and display racks. This class is identical with furniture and fixtures and will not be discussed here.¹ (2) Books, manuscripts, insignia, vestments, pictures, statuary, and kindred articles. Similar articles are found in large and elaborately furnished dwellings. The work of preserving these from further damage after fire, explosion, windstorm, or other casualty has been outlined in the section dealing with household furniture.² There are left for specific discussion only the sources of information on interests and values and the methods of determining the damage done.

Establishing Interests. Valuable articles and collections are often lent to libraries, schools, churches, and art galleries for exhibition. Ordinarily, the owners cover the property with specific policies or protect them under one of the several kinds of inland-marine policies granting floating coverage. If any such property is involved in loss, interests and liabilities must be investigated.

¹ See pp. 323 to 327.

² See pp. 308 to 322.

Value and Damage. Books in daily use, insignia, and vestments can usually be replaced through the houses that sell them. Ordinary books can be rebound at commercial binderies when damaged, while insignia and vestments can be restored, cleaned, or repaired if only slightly injured. The rare and unusual article, prized because of great age or its production by a celebrated person, is difficult to value and difficult to repair if injured. To fix in terms of money the amount of damage done to such an article is even more difficult. Value and damage of such articles must be referred to experts who are familiar with them. It may be well to consult several experts if they are accessible. Opinions will generally differ somewhat, and the rarer the article, the greater the chance of widely varying opinions as to its value. Throughout the country there are persons who, possessed of great skill, make a business of restoring or repairing objects of art that have been damaged. They can rebind old books, restore damaged paintings, mend broken statuary or vases, repair broken violins, replace wood inlays in furniture, and in other ways bring back the appearance of the articles. Others can reweave or reembroider damaged textiles, such as laces, rugs, and tapestries so as to defy detection except by an expert. The opinions of such persons should be obtained when valuable articles have been damaged, whether they can be restored and, if so, the approximate cost of restoration. While repairs and restorations may not leave the articles as valuable as before, they prevent them from becoming total losses. It is well to remember that many costly works of medieval and early modern art have undergone some restoration before being marketed.

Miscellaneous. Some rather important subdivisions of personal property have not been discussed. The contents of theaters, picture theaters, laboratories, and photograph galleries are examples. But the articles appearing on an inventory of such property can be classified into groups that are similar to these already described. Thus the seats of a theater are furniture; the curtains, draperies, and scenery are either pictures or furnishings; and the mechanisms behind stage are machinery. Similar divisions of the miscellaneous contents of other establishments will suggest themselves.

Stocks of Merchandise

Stocks of merchandise include the collections of things for sale in retail stores and shops or in wholesale establishments and factories, and also articles and commodities intended for sale and held in warehouses, elevators, and storage tanks, or stacked or piled in the open.

Effects of Perils Insured Against. Merchandise may be destroyed, lost, or damaged by the action of one or more of the various perils commonly insured against.

Stocks of inflammable gases, oils, liquids, metals, and inflammable combinations—such as hydrogen, acetylene, coal or water gas, gasoline, benzol and naphtha, nitroglycerine, alcohol and turpentine, magnesium and potassium, ammonium nitrate, fireworks, or celluloid—explode or burn when ignited.

Baled cotton, silk, or wool, stocks of fabrics or garments made from them, as well as stocks or products of paper or wood, burn to ashes.

Stocks of articles made of magnesium will burn. Lead, zinc, and alloy stocks, such as pewter, solder, or type metal, melt at low temperatures and are often lost in the burning of buildings containing them. A stock of brass, copper, iron, or steel articles will fuse into a mass of scrap if the fire is intense. Stocks of lard, butter, tallow, bacon, or hams will burn.

Heating and scorching destroy or reduce the value of stocks containing wax figures or pieces of candy by making them soften and stick together or lose shape. Pictures are blurred or curled, and the covers and bindings of books are discolored or cracked, by heat. Loss occurs in stocks of bottled goods kept in drugstores, liquor stores, or other occupancies when heat causes the air in the bottles to expand and force out the corks. Heat will rupture or swell cans containing tomatoes, salmon, peaches, or other food-stuffs and do similar damage to any stock in sealed containers if the con-

tents will produce steam or vapor when heated. Shoe stocks and luggage stocks become valueless if the heat is great enough to scorch the leather.

The action of heat cracks such materials as glass, minerals, or certain compositions forming parts of various kinds of merchandise.

While some stocks, such as acid phosphate used in making commercial fertilizers, are not injured by the direct action of heat or fire, they will be strewn with nails, bits of metal, bricks, plaster, and other noncombustible residue if the building housing them burns. Considerable expense will be necessary to clean them.

Some losses are caused by smoke. Delicate fabrics that will not stand cleaning suffer severely from smoke damage. Smoke is injurious in direct proportion to its heat, as heat determines the amount of distillate that it will deposit when cooling. Smoke is hottest immediately over the fire producing it and tends to cool rapidly as it drifts or is blown away. Distance from point of origin is an index of the temperature of smoke.

Severe smoke damage occurs when hot smoke comes in contact with articles and covers them with a film of gum or oil that the fire has distilled from resinous or greasy substances. Slight damage results when smoke that never was very hot, or that has had a chance to cool, deposits particles that can be wiped, dusted, or blown off.

In some instances smoke impregnates fabrics, foodstuffs, or tobacco with an odor that may or may not persist. Butter, cheese, and ice cream retain smoke odor. Tobacco may or may not retain it. Fabrics almost always lose it if aired.

Merchandise is buried, crushed, or broken by falling walls, timbers, or other building debris, when the structure containing it is wrecked by fire, explosion, windstorm, or the impact of an airplane, automobile, or other vehicle. Liquids in tanks, vats, or other vessels holding them will be lost if the vessels are ruptured. Similar destruction and damage occur when loaded trucks or freight cars are involved in collisions.

In country districts losses sometimes result from breaking, tearing, or soiling when merchandise is hurriedly removed from a building, because endangered by fire in nearby premises.

Great damage is done by water. Stocks such as zinc sulphate or salt may be dissolved. Stocks of light articles, such as hats on tables or open racks, may be scattered by the water from hose streams. Liquid stocks in open vats or tanks lose value by being diluted. Other stocks are injured if water

causes the articles to become mixed. A stock of pearl buttons of assorted sizes cannot be reclaimed at any reasonable cost if the firemen play enough water on the stock to soften and break open the pasteboard boxes in which they are packed, allowing the buttons to mingle. Chemicals may be washed together by the action of water, with resulting loss. Articles that tend to become sticky, if wet, suffer great damage, stocks of paper envelopes usually becoming total losses if wet enough for the gummed flaps to adhere. Staining and discoloration due to the mingling of colors, and changes in flavors of foodstuffs, are common results of water damage. Stocks such as cement, flake or powdered glue, or sugar may be solidified by the action of water. Cloth often shrinks after being wet. Hardware stocks will rust unless immediately dried and cleaned. Water damages stocks of wood furniture by softening the glue, following which the joints open.

Shoe stocks are heavily damaged if water-soaked; men's suits and overcoats suffer less than women's dresses; haberdashery suffers severely; and millinery is almost always a total loss if badly wet. The open stock in a grocery store is often ruined by water, while the canned and bottled goods can be salvaged with little loss.

In many commodities or articles, wetness and dampness produce mildew. Stocks of cotton seed, linseed, hay, or mixed feed will heat after being wet, the heat increasing, if the mass is great enough, until there is spontaneous ignition. Water coming in contact with potassium produces combustion. Stocks of lime develop enough heat when wet to ignite the barrels. Stocks are washed away or submerged by floods. Cargoes are lost when the vessels carrying them sink.

Some merchandise is blown away and lost in tornadoes, but generally the greatest damage done to merchandise in a windstorm area is due to the breaking open of the structure housing it and to the rain that so often accompanies or follows a windstorm.

The destruction of a roof or the breaking of windows may expose the contents of a building to serious injury, as many kinds of merchandise require protection from rain, heat, or cold. Destruction of heating or refrigerating equipment may permit liquid stocks to freeze or perishable stocks to spoil.

Theft losses range from single articles of merchandise to the entire contents of warehouses, lofts, stores, or trucks.

Breakage, mussing, cutting, soiling, and acid damage are done to stocks or shipments of merchandise by rioters, or persons bent on malicious mischief.

Measure of Loss. Merchandise in the hands of retailers and wholesalers can ordinarily be replaced promptly if lost or destroyed. It is, therefore, accepted adjusting practice to value retail and wholesale stocks at the cost of replacement. To the invoice price that must be paid in case of replacement there is added the cost to the insured of any freight or other transportation charges necessary to deliver the stock to the place of loss. In some instances the cost of receiving, opening, tagging, marking, and arranging the merchandise for sale is properly added. Any trade or cash discount is deducted.

Finished merchandise in the hands of manufacturers may require considerable time to reproduce, if destroyed, and is often covered by policies containing a stipulation that the merchandise shall be valued at what it could be sold for, less the costs that would be incurred in selling it. In treating with merchandise so covered, it is the practice to examine the sales record, or the price list of the manufacturer, if the business is highly active, and price the merchandise accordingly, deducting sales discounts and outbound freight or commissions, if the manufacturer customarily pays either.

Commodities that, like wheat and cotton, are bought and sold on established exchanges are, in adjusting practice, valued according to exchange prices. If the scene of the loss is at a distance from the exchange, the cost of shipping the commodity to the city in which the exchange is located is deducted.

Canned fruit, fish, or vegetables in the hands of the canner are valued at selling price, less unincurred costs of selling. The canner is able to obtain what he cans only by contracting for it before the canning season begins and, if he loses his product, cannot replace it until the next season, except by purchase from a competitor.

Any active merchandise that, if lost or destroyed, cannot be replaced within a reasonable time is worth to the owner what he could have sold it for. It should be valued accordingly.

Merchandise bought abroad is, in many instances, dutiable. Duty constitutes a proper item in the computation of replacement cost. Imported merchandise subject to duty may be stored in a bonded warehouse, pay-

ment of the duty being deferred until the merchandise is taken out or the time limit for paying the duty expires. If it is destroyed while in bond, there is no obligation resting on the owner to pay the duty, and the duty is, therefore, not considered in adjusting the loss. If destroyed after the duty has been paid but before the merchandise has been moved out of the warehouse, the duty, under some circumstances, is recoverable from the federal government. Efforts to recover any duty should be made through a customhouse broker. Whisky on storage in a bonded warehouse is valued at the in-bond price.

Merchandise that has been damaged can, in some instances, be sold by the insured to his regular trade, with or without reconditioning, at reduced prices. In others, it cannot and must be sold to outsiders. It is accepted practice for the adjuster to consider the insured's possibilities of selling the merchandise and to try to agree with him upon an amount that will fairly represent the difference between what he will get for the damaged merchandise and what he would have sold it for had it not been damaged. Any such amount will, of course, be an estimate and should allow for costs of reconditioning, if necessary. The adjuster also considers what could be realized from the merchandise should it be taken and sold as salvage. If sold as salvage, the difference between the agreed sound value and the net proceeds realized from the sale of the goods definitely measures the amount of loss.

Some stocks consist of articles or commodities that, after being damaged, can be reconditioned and sold as sound merchandise. Other stocks can be repacked, redyed, or refinished and sold as seconds or other inferior grades. Still other stocks must be offered to customers as admittedly damaged goods through the medium of fire sales or sold to dealers in damaged and odd-lot merchandise. In the case of commodities that can be reconditioned and sold as sound, the measure of loss will be the cost of reconditioning plus any loss in quantity. In the case of stocks that, after refinishing, must be sold for less than the price of sound merchandise, the measure of loss will be the cost of refinishing plus the amount lost through price reduction.

Depreciation. Stocks of merchandise depreciate because of shopwear, poor storage or handling, poor selection, slow selling, failure to clear out odds and ends, deterioration, attacks of insects, rats, or mice, and influences of climate, weather, or location. Shopwear is shown in soiling, fraying, rusting, tarnishing, fading, denting, or chipping. Poor storage may

expose merchandise to moisture and heat conditions that produce mildew or fermentation. Failure to dust or wipe furniture stocks will cause them to lose their luster. A poor selection of sizes will soon leave a shoe stock with nothing but hard-to-sell odds and ends on hand. Failure to clear out the less desirable pieces of a lumber stock will leave on hand an excessive percentage of culls. Slow selling of seasonal merchandise, resulting from overbuying, poor general or local business conditions, or other causes, prevents the clearing of stock in the season for which it is suited, and compels the merchant to sacrifice it or risk carrying it over to compete with the new styles of the next year. Many food stocks are at their best for only short periods. A bakery stock would probably be unsalable if kept a week. Raisins, dates, figs, and other dried fruits lose quality rapidly. Moths attack furs or woolens. Flies speck the surface of articles. Weevils invade grain and grain products. Rats and mice cut containers and damage food-stuffs. Winds, moisture, heat, and cold are at times injurious, while location may expose a stock to such deteriorating influences as excessive smoke from nearby plants, or to corrosive gases.

Valued Units. Merchandise is occasionally covered by contracts that stipulate the value of the unit: the yard, the pound, or the ton. Marine and inland-marine policies often value merchandise according to the price at which it is invoiced for shipment, sometimes plus a stated per cent.

Partial and Total Losses Stock losses present the following situations: (1) part of the stock is damaged, the rest undamaged, (2) all of the stock is damaged, (3) part of the stock is a total loss, the rest undamaged or damaged in whole or in part, and (4) all of the stock is a total loss. Like other kinds of personal property, merchandise can be in sight but a total loss because its value has been destroyed.

A stock of merchandise may be damaged through suffering the total destruction of one or more of its component parts, articles, or divisions. If such is the case, the quantity destroyed can be determined. The degree of accuracy with which any damage can be fixed depends upon the nature and condition of the merchandise. If the insured's stock consists of prime cottonseed oil in five tanks, and one tank containing 10,000 barrels of oil is destroyed, the value of the oil destroyed and the consequent loss to the insured can be quite accurately determined. A stock, however, may sustain a general damage. If so, the loss may be uncertain. If the stock consists of clothing and furnishings being sold at retail and is thoroughly

drenched by water used to extinguish a fire on the floors above, the insured's loss will depend upon his ability to sell the merchandise, either through a fire sale or by sales to salvage buyers.

In stock losses, as in losses involving other kinds of property, the merchandise itself is the best evidence of the value covered by the insurance at the time of loss.

Whenever, following loss, the merchandise can be counted, measured, or weighed, it is accepted adjusting practice to determine quantities by making a physical inventory. Exceptions are made when highly controlled records are kept, records that have been tested over periods of time and found to show only small variations from physical inventories, when taken. When merchandise has been consumed by fire, washed away by flood, or stolen, the showing of the books and records becomes a theoretical inventory and, unless discredited by other evidence, is, in practice, accepted as the basis of adjustment.

Procedure. Procedure in stock losses is similar to that followed in losses on other kinds of personal property; books and records, however, are examined more often and stock is more frequently taken for sale as salvage.

Procedure includes (1) getting the insured's story, (2) identifying the stock and checking the coverage, (3) establishing the interest of the insured and of all others in the stock, (4) saving endangered stock or recovering lost stock, (5) examining the stock and making a survey and estimate of the situation, (6) choosing a method of adjustment, (7) protecting stock from further damage, (8) separating the damaged and undamaged stock and putting it in order, (9) preparing for discussion of value and loss, (10) agreeing upon value and loss, or agreeing upon value and taking all or part of the stock, or arranging to have it sold as salvage, (11) checking claim.

Procedure in any loss will depend largely upon how much of the stock has been involved and how it has been affected. In some losses, the quantity of lost or destroyed stock will be indicated by circumstantial evidence, such as fire marks on the side of a bin, the walls of a building, or the shell of a tank. In others, while all value will have been destroyed, physical remains will evidence the identity and quantity of the stock. In some losses, however, there will be no trustworthy physical indications of the existence of the stock, or of the part of it that is missing. Here the develop-

ment of the insured's story and examination of the books and records will be the important steps in the procedure.

The Insured's Story. The majority of stock losses are of small or moderate size and free from complications. The insured's story is generally short and simple. He will show the adjuster some burned or wet articles, tell what happened, and say what he wants in settlement. If asked to substantiate the cost or replacement cost of the articles involved, he will submit an invoice or quotation from his supplier. In some instances, he will say that, if paid the amount he claims, he will be able to make himself whole by selling the damaged articles to customers at reduced prices, or by reworking them, if he is a manufacturer. In others, he will say that he cannot sell or use the articles, is claiming the full cost of their replacement, and is ready to turn them over to the insurer upon payment.

In some losses, dresses or other garments or fabrics will have been scorched by contact with electric-lamp bulbs or by pressing irons left in circuit. In such losses, the insured must be asked whether the scorched article actually took fire.

Claims for damage by smoke are sometimes made as the result of a motor becoming overheated because of overload or other electrical trouble and smoking up the premises. In such claims, the insured must be asked whether the smoke was given off by the motor before or after the current was turned off, and whether insulation or grease took fire.

In manufacturing risks, stock is often damaged or destroyed by heat without any ignition taking place; sometimes, however, by taking fire afterward. When claim is made for the contents of a drying oven or cabinet, the story of the insured must be developed so that he will tell all that was seen or heard indicating whether there was actual ignition of the contents and, what is equally important, whether the heating that preceded any ignition was great enough and prolonged enough to destroy or decrease the value of the contents before ignition occurred.

A variation of the foregoing is presented by the damage that sometimes occurs in chemical plants when an operator makes a mistake in handling the ingredients that go into a product and produces a mixture that heats up as a result of chemical action and finally breaks into flame. Ordinarily, in such mistakes, the value of the ingredients in the batch is destroyed by chemical action before fire occurs. When claims are presented for such losses, the insured's story may require checking by a chemist.

When spontaneous ignition has caused loss in commodities such as coal, wool, or cotton seed, the insured must be asked to tell when odor, heat, or smoke was first noticed. In such commodities, a process of decomposition precedes and causes the building up of the heat that finally produces ignition. If the entire bulk of the commodity began decomposing and heating before it took fire, the value was destroyed before the fire occurred.

When claim is made for damage by rust, mildew, or other results of dampness or wetting, and there is doubt in the adjuster's mind that the dampness or wetting was the result of fire, sprinkler leakage, or other casualty, because of which the insured gave notice of loss, the adjuster should ask the insured to give the history of the conditions under which the stock has been stored. In many instances, stock stored in basements, sometimes in other sections of a structure, takes on damage from dampness caused by seepage, lack of ventilation, or other conditions due to faults of location or construction and not to accident. In such instances, it is important to know how long the stock has been kept in the damp quarters.

Occasionally, tanks used for holding oil or the pipes connected with them are ruptured by overload or accident not covered by the insurance, and the oil runs out on the floor, comes in contact with flame, ignites, and is destroyed by the fire. When such is the case, the loss of the oil occurred before it burned, and was not due to fire. The insured's story of the circumstances attending any such situation should be developed by questioning.

When stock is missing from sections of the premises not damaged by the fire or other casualty, the insured should be questioned as to when the stock was last seen and when it was first missed. Loss by theft is not covered by fire policies or the extended coverage endorsements attached to them, except when property is taken by rioters.

In losses due to the throwing of stench bombs into stocks or to their being slashed, or sprinkled with acid, the insured's story becomes highly important. In most states, if three or more persons participate in the bomb throwing, slashing, or acid sprinkling, the courts hold that the insured can maintain claim under the riot provision of the Extended Coverage Endorsement. If less than three participate, he cannot. The insured's story must, therefore, include a definite statement of what he knows about the number of persons who jointly engaged in damaging his property, if he is making claim under insurance against riot. If he holds malicious damage insurance, the number of persons is not important.

In mercantile risks and manufacturing plants, the stock is ordinarily owned by the insured, and there is only one interest to consider. There are, however, many such risks and plants in which goods of others are on the premises and, by being there, create other interests. The most common situations are (1) consignments of stock, (2) concessions, (3) stock sent to the insured to be manufactured, (4) stock sent to the insured for processing. The practice of consigning stock to a merchant for selling is not common. In many department stores, there are concessions for selling particular merchandise that the store itself does not handle. In many manufacturing plants (garment plants, in particular), much work is done on goods belonging to others who send them to the plants to be turned into finished articles. Dress and clothing manufacturers will cut cloth and send the cut pieces to a contractor who will sew them together, work the buttonholes, sew on the buttons, and do whatever else is necessary, returning finished garments to the primary manufacturer.

In case of loss, the insured should be asked to point out any goods of others that may be on his premises. He should also be asked to state what interest he has in them and what is his liability, if any, for them.

In processing risks, such as bleacheries, finishing plants, dye works, and sponging establishments, the stock almost always belongs wholly to customers.¹

Generally, the last part of the insured's story should cover his opinion of value and loss: what his stock was worth, how badly it was damaged, what can be done with it, and how much, in dollars, is the damage. If the figures he gives are not in keeping with what the adjuster sees or believes, it may be advisable to question him about the salability of the stock before the loss, the cost of replacing it, and what he would do if he had no insurance. As soon as possible, the adjuster should find out whether the insured wishes to keep any damaged stock for sale or use and whether he will cooperate in efforts to save and recondition it, or takes the position that he cannot sell or use it and, therefore, wishes it to be taken over by the insurer and sold as salvage.

When stock has been destroyed and the insured states that it will be necessary to go to the books and records for evidence of quantity or value, it is advisable to ask him to tell in a general way what records he keeps and

¹ See Chap. 16.

how closely the showing of the books in the past has checked with the physical inventories taken from year to year.

The insured should be questioned as to total insurance and, when stock belonging to consignees, concessionaires, or others is on the premises, he should be asked to state what he knows about any insurance that they hold.

Identification and Check of Coverage. Stock is identified by comparing it, or the space it occupied before its loss or destruction, with the description and location that are stated in the policy or policies.¹

Coverage is checked by description and location, with special attention to inclusions, exclusions, and provisions for valuation.

There are very few exclusions or provisions for valuation in specific policies covering the stock in ordinary mercantile and manufacturing risks. Generally, stock otherwise insured is excluded, the forms differing somewhat in wording. Occasionally, stock in basements or yards is excluded.

In floating policies and reporting policies, there are, ordinarily, exclusions of certain locations; occasionally, of certain kinds of stock. In forms covering superior manufacturing risks there is included, ordinarily, a proviso that the insured's finished stock shall be covered for its selling value, less costs of selling and delivering.

In forms covering distilled liquors in barrels at the distillery, or wines at the winery, there are provisions for valuation according to selling prices of the liquors or wines after they have been bottled and cased, less the cost of bottling and casing.

Establishing Interests. In most stock losses, the insured is the sole and unconditional owner of all merchandise on the premises. Invoices in his possession, showing purchases, will evidence his ownership.

In many losses, however, the stock covered by the insurance is made up of merchandise, some of which is owned by the insured, the rest by others. Merchandise owned by others may be the property of consignees, concessionaires, or persons who have sent it to the insured for storage, processing, or manufacturing. The insured is a bailee of such merchandise and, in the absence of an agreement with the bailors to the contrary, is not liable for its loss by fire or theft unless his negligence causes the loss or contributes to it. In many instances, however, the merchant, warehouseman,

¹ The problems of identification that arise when lots of the same kinds of stock belonging to different owners have been inextricably mixed are discussed in Chap. 16.

processor, or manufacturer agrees to assume liability for loss, protecting himself by insuring against the liability, or agrees to maintain insurance on the merchandise itself for the benefit of the bailor. In other instances, the bailor agrees to carry his own insurance.

In any event, bailor and bailee have each an insurable interest in the merchandise: the bailor, generally because he owns it; the bailee, because of his charges and because he will be liable for it if it is lost or damaged as the result of negligence on his part.

Agreements between bailors and bailees as to liability and insurance are, at times, set forth in written contracts or memoranda; at times, such agreements are oral. In a substantial number of losses in stores and factories, the adjuster will find that neither bailor nor bailee had given any thought to questions of liability or insurance, and neither made any provision for covering the bailor's merchandise when it was brought into the premises. Consequently, if the merchandise has been damaged without negligence on the part of the bailee, no claim can be maintained under the bailee's policy for the damage.

Interests in goods on the premises belonging to others should be established by the adjuster through examination of written contracts or memoranda, or by oral statements of both bailor and bailee.¹

Because the New York Standard Fire Policy and the standard policies of most of the other states no longer stipulate that the insured must be a sole and unconditional owner, they cover any property fulfilling the description stated in the form and located within the boundaries prescribed by it, to the extent of the insured's interest in it. It would seem that the trust-and-commission clause is surplus wording in such policies. The clause, however, is generally found in policies covering stock.

In department stores, in furniture and upholstery stores and shops, and in other stores and shops that maintain repair departments, there will almost always be on hand at the time of a fire a number of household articles that belong to customers and that are being altered, renovated, or repaired. Such stores and shops are not thought of as bailee risks, but in their repair departments, they are. Most of the customers' articles on hand at any time will be covered by the 10 per cent off-premises extension of the customer's household-furniture policy and will also be conditionally covered by the policies held by the store or shop.

¹ See Chap. 16.

In many manufacturing risks, the manufacturer works not only on his own materials but also on materials sent him by other owners. In many instances, the owners carry their own insurance.

Information developed when establishing interests sometimes leads to the discovery of other insurance protecting other interests. Such insurance may be liable for the loss suffered by the interest by reason of an exclusion in the bailee's policy of loss on property insured by others.

Examination, Survey, and Estimate of Situation. In the general run of stock losses, the adjuster gets the insured's story, identifies the stock, checks the coverage, examines the merchandise, surveys the situation, and adjusts the loss, all during a single visit. In the exceptional losses, examination and survey are independent and time-consuming operations.

In small losses due to scorches of articles by electric-lamp bulbs, by pressing irons left on garments in repair departments, or by the lighted cigarettes or cigars of customers carelessly brought into contact with suits or dresses hanging on racks, the damaged articles must be examined for evidence of ignition. Occasional claims are made following showcase accidents in which faulty design has placed a bulb or tube lamp too close to the glass. The glass becomes overheated and cracks, fragments strike the lamp and break it, showering the interior of the case with hot pieces of the filament of the lamp. Articles on display may be marked by the pieces. Such claims are borderline cases.

In losses involving the contents of driers, ovens, or other devices utilizing heat, the residue of the contents should be examined, also the interior of the device, as it may or may not show fire marks.

Claims for damage by smoke are occasionally made by merchants who sell high-priced wearing apparel because a motor operating one of the services in the premises has overheated and given off smoke. In such claims, the survey must include an investigation of what actually happened in the motor, whether or not there was fire as distinguished from electrical overheating.

In all losses involving water damage, a sufficient survey of the premises and, at times, of the surroundings must be made in order to determine the source from which the water came and the channel by which it reached the stock.

Occasionally the adjuster will be dispatched to look at a smoking coal pile or heating mass of cotton seed. The question of whether ignition has

occurred, while important from the standpoint of contract, may become subordinate to the vital question of what can be done to prevent an outbreak of fire and severe loss.

On reaching the scene of any loss, the adjuster should note the general condition of the stock and the premises. In many instances, all of the stock will be in sight and the premises weathertight. The character of the merchandise will be such that it will not deteriorate because of a few days' stoppage of business or suffer further damage if left as it is. It is accessible, an accurate inventory can be made of it, the damage to it can be estimated with a fair degree of certainty, or it can be offered for sale to a salvage buyer without first having to be reconditioned or removed to a warehouse or other place of safety.

A retail shoe store, for example, may occupy the first floor of a building as selling space, receiving and unpacking cartons of shoes in the basement. Fire may occur in the basement, break through to the first floor, and do some damage before it is controlled. No stock is burned out of sight, all pairs of shoes can be identified, and the stock is not wet enough to go bad if left alone. By keeping the heat on or airing the store properly, the stock will dry where it is. An inventory can be made and the loss adjusted with no preliminary handling of the shoes.

There are many losses, however, in which the adjuster will find the premises wrecked, part of the stock destroyed, part requiring removal and drying, and part requiring protection where it is, often to be given by closing the premises against the weather. It will be possible to inventory part of the stock. The value of the rest will have to be established by examining the books. In a few losses, the adjuster will find wet merchandise that, if processed without delay, will produce perfect finished materials or articles. Wet raw furs are an example.

A manufacturing concern may suffer a severe fire loss in a large warehouse where it concentrates raw material for use at the factory and finished goods for shipment to branches. Fire completely destroys one section of the warehouse, severely damages another, and slightly damages a third. Several carloads of heavy cotton goods in bolts have to be removed from the severely damaged section where they were drenched by hose streams and rushed to a plant where they can be put through mechanical driers, while much finished stock in cartons has to be taken out of the wet cartons, wiped and repacked in dry cartons by crews working in the

slightly damaged section in which all broken windows have been boarded up, and temporary wiring installed in order to furnish light. The value of the destroyed merchandise has to be established by writing up and pricing the in-and-out records of the warehouse.

In serious losses, the adjuster should promptly determine what merchandise is in sight and whether there is reason to believe that other merchandise of substantial value is buried under debris, covered by snow, or submerged in a flooded basement or in the water under or adjacent to a fire-damaged pier.

Merchandise in sight should be examined to ascertain whether a substantially correct inventory can be made of it, also, to gain some idea of the sound value involved and the nature and extent of the damage. In cases of severe damage, particular attention must be given to the probable value remaining in the damaged commodity or articles, whether it is great enough to warrant the expense of efforts to save it. When merchandise in sight is worthless, the cost of removing it must be given consideration if the insurer is liable for the cost of its removal.

When there is reason to believe that merchandise worth recovering has been buried, covered, or submerged, survey of the situation should include inquiry into the possibility of exploratory or recovery work in conjunction with wrecking or debris-removal work, if such work is planned for the benefit of any other interest.

The space occupied by merchandise that, according to the insured's story, is out of sight should be surveyed for size, area, markings, or other physical evidence indicating quantity. Any remains of merchandise should be examined to see whether they substantiate or refute the insured's statement of what or how much was destroyed.

When merchandise in sight has been so badly damaged that it cannot be inventoried or when it is out of sight, the survey of the situation should include inquiry as to what books and records the insured may be able to produce that will show quantities or values.

The work of examination and survey should be done with dispatch. The adjuster should familiarize himself with conditions that indicate how any stock in sight should be treated in order that its maximum value may be realized by the insured, if he keeps it, or by the insurer, if it is taken and sold as salvage. He should also familiarize himself with the circumstances that determine how procedure should be planned in order to

develop, at minimum expense, the best information to be had bearing on value and loss.

The following outline fairly well indicates what may be necessary.

OCCURRENCE OF LOSS

What physical evidence tends to confirm or discredit the insured's story as to occurrence of loss and how the stock was affected?

Does the appearance of the merchandise and the premises indicate loss, destruction, or damage of merchandise by a peril insured against?

Do appearances indicate that loss, destruction, or damage, or any part of it, was caused by a peril not insured against?

Are there any indications of undisclosed previous loss, destruction, or damage?

Is there anything indicating concealment of merchandise said to be lost, or intentional destruction or damage of merchandise?

What person can give credible information about occurrence of loss and how stock was affected?

THE SITUATION IN GENERAL

What Is Involved

Has all stock covered by the policy or the item, or all stock on the premises where loss occurred, been involved?

If not, what is involved, and what not involved?

Which of the following situations is found at the premises where loss occurred?

- a. Part of the stock is damaged, the rest undamaged.
- b. All of the stock is damaged.
- c. Part of the stock is a total loss, the rest damaged in whole or in part.
- d. All of the stock is a total loss.

Is all merchandise on which claim will be made in sight?

If not, what is in sight, and what, according to the insured's story, is out of sight?

What Is Required

What must be determined because of any distribution, contribution, or coinsurance clauses in the insurance:

- a. Amount of loss only?
- b. Sound value on the premises and amount of loss?
- c. Sound value in all structures and on yards at one plant?
- d. Sound value at a number of locations?

MERCHANDISE IN SIGHT

Possibility of Examination

Is all merchandise in sight accessible and subject to examination for identity and condition?

Can examination be made where it is and as it is, or must the merchandise be moved, separated, or unpacked before examination?

Possibility of Inventorying

Is the condition of the merchandise such that all of it can be counted, weighed, or measured?

If any of it is in packages or containers, are the labels, tags, or other identifying marks legible or have they been washed off, destroyed, or obliterated?

Has the merchandise been so badly mauled, mixed with other merchandise, or scattered as to make the cost of counting, weighing, or measuring prohibitive?

Will any other condition make inventorying impossible or inadvisable?

Condition of Merchandise and Premises

Is the merchandise in a place of safety and not subject to further damage?

If not, is its probable remaining value great enough to warrant the cost of efforts to save it?

Is it a kind of merchandise that, because of what has happened to it or to the premises containing it, must be used, distributed, or processed without delay in order to preserve its value?

Is it, or the premises, in such condition that action is necessary to protect it from further damage?

Will the space and equipment available on the premises, and the condition of both, permit whatever handling of the merchandise may be requisite to its examination?

Treatment of the Merchandise

Should the merchandise remain on the premises or be moved elsewhere?

Should arrangements be made for its sale, use, distribution, processing, or reconditioning without delay?

Should all undamaged merchandise that is part of the sound value be inventoried in place or checked out as it is shipped or removed?

MERCHANDISE OUT OF SIGHT

Does the appearance of the premises tend to support or discredit the insured's story as to what merchandise is out of sight?

Should any debris be separated, counted, weighed, or measured?

What physical evidence other than debris indicates identity or quantity of stock out of sight or that no stock was destroyed or lost?

Should debris be removed before inventory of stock has been completed?

BOOKS AND RECORDS

Has the insured kept and can he produce books or records showing the quantity or value of any stock not in sight, or of any stock in sight that cannot be inventoried or that it is inadvisable to inventory?

DEVELOPING AND RECORDING EVIDENCE

Should any witnesses be interviewed and their statements taken?

Should any photographs be made?

Should the reading of any labels, tags, or other package marks be recorded?

Should any counting, weighing, or measuring be done, or any sketches made?

Choice of Method of Adjustment. The choice of method by which a loss on a stock of merchandise is to be adjusted should be made according to the circumstances attending the particular loss. The loss may involve stock in sight, stock out of sight, or both. Some losses involve complete destruction of part of the stock and general damage to another part, while the rest of the stock has escaped injury.

When all of the stock is in sight, and the salvage value is less than the probable cost of saving and selling the merchandise, determination of the sound value will also determine the loss. In such a case, only two steps need be taken: (1) to agree upon the replacement cost of the merchandise

and (2) to agree upon the amount to be deducted for depreciation. The difference between replacement cost and depreciation will represent both sound value and loss. When the salvage value is material, the property must be protected from further damage and inventoried. The adjuster must then decide whether he will try to adjust the loss by agreeing with the insured as to its amount or by agreeing upon the sound value and taking the merchandise to be sold as salvage. Most adjustments are made by agreement as to amount of loss, the insured collecting the amount, or such portion of it as is payable because of contribution or coinsurance, and retaining the damaged merchandise to be disposed of as he sees fit. If the insured is to retain the merchandise, the adjuster may try to reach an agreement on value and loss with or without the help of an expert, depending upon whether he is familiar with the value of the merchandise involved and its susceptibility to loss. Usually the adjuster and the insured discuss the probable outturn of the damaged goods, giving consideration to trade conditions and other matters bearing on the insured's opportunity to dispose of them. Quite often, however, the adjuster will bring into the discussion men who make a business of trading in damaged stocks, particularly, representatives of the Underwriters Salvage Company.

In some cases an agreement is reached that the stock shall be reconditioned and that the cost of reconditioning, plus proper allowance for loss of quantity, grade, or both, shall determine the amount of loss.

If the amount of loss cannot be determined by agreement, it may be fixed by appraisal.

The foregoing may be summarized by saying that the adjuster ordinarily chooses one or the other of the following two methods when dealing with stock in sight:

1. Insured and adjuster go over the merchandise, with or without the help of experts, discuss the amount claimed on each lot or on the merchandise as a whole, and try to agree upon the amount of loss. When the insurance is subject to coinsurance or contribution clauses, they also try, in the same way, to agree upon sound value. Efforts to agree are generally made after the merchandise has been separated, put in order, and inventoried, and the adjuster has familiarized himself with the inventory. Occasionally, efforts are made to agree upon percentages of loss to the various lots of stock with the understanding that they will thereafter be inventoried.

2. The adjuster exercises the insurer's option to take the merchandise at an agreed value and afterward has it sold as salvage. Sometimes the procedure is varied, the merchandise being sold under an agreement that the net proceeds of the sale shall be paid to the insured who deducts the amount received from the agreed value of the merchandise and makes claim for the balance.

Occasionally, the character of the merchandise, the nature and extent of the damage, and possibly other circumstances make it advisable to use a third method:

3. The adjuster authorizes the insured to sell, use, recondition, or have processed the merchandise that has been damaged, and account for the cost, also for any loss of quantity or lowering of grade.

When dealing with stock out of sight, either of two methods may be used, depending upon whether the insured has kept and can produce records covering the quantity or value of the merchandise:

4. The insured makes claim for merchandise out of sight according to the showing of his books and records. The adjuster examines the books or records, or has them examined by an accountant, and considers their showing.

5. The adjuster examines the space occupied by the merchandise as it is pointed out to him by the insured and the debris or any other physical evidence of its existence, sometimes taking the statements of persons who were familiar with the merchandise before the loss, and tries to agree with the insured upon the value.

One other method of adjustment is possible, but it has been used so rarely that it is mentioned here as more theoretical than practical:

6. The adjuster may exercise the insurer's option to replace the merchandise.

Answers to the following questions will generally indicate what method of adjustment will result in the best combined figure of loss and expense when the amount of damage to merchandise in sight is the controlling factor of the situation:

1. What would the insured do, if he had no insurance, in order to realize the largest net return from his damaged merchandise? Would he sell it to his customers at reduced prices? Would he sell it to a dealer in damaged merchandise?

2. In either case, would he offer it for sale, as is, or would he first recondition or rework it?

Assuming that the adjuster has at his command the services of a competent and reliable salvor or salvage organization:

3. Can the total of loss and adjustment expense that the insurer would otherwise pay be reduced by taking and selling the merchandise?

There is little freedom of choice when dealing with large amounts of stock actually or supposedly out of sight. If books and records exist, they must be examined unless physical conditions make the situation obvious.

In many losses, circumstances will require the combined use of two or more of the methods outlined.

Situations in which each of the first three methods is ordinarily used are outlined in the subsections following:

Method 1. Agreement on Value and Loss. The great majority of stock losses are adjusted by agreeing upon sound value and loss, the insured retaining the damaged merchandise to dispose of as he sees fit. If the insured can successfully sell damaged merchandise to his own trade at a concession in price, he can ordinarily do better than an outside salvage buyer who would have to move the merchandise and set it up elsewhere before offering it for sale. Manufacturers whose plants operate in a way that permits the refinishing of damaged products or parts can also ordinarily do better with their products than outsiders.

Method 1 should be used whenever it is possible to make an agreement with the insured on a fairly estimated amount of loss, unless a salvage buyer is ready to pay a price for the merchandise that will produce a smaller loss.

This method should always be used when dealing with losses of doubtful honesty.

Method 2. Taking Stock for Sale as Salvage. When, because of the character of his merchandise, the class of his trade, the lack of facilities for handling damaged merchandise, or other valid reasons, the insured cannot sell damaged merchandise to his own trade, it is advisable to adjust the loss by having the salvage sold for account of the loss or by taking the merchandise at an agreed value and selling it for account of the insurer. Use of this method of adjustment must be limited to merchandise that, prior to being damaged, was salable and to situations in which it is possible to make a fair agreement on the sound value of the merchandise to be taken.

If the insured cannot dispose of the merchandise except by selling it to an outsider, a competent salvor or salvage organization should ordinarily be able to get a higher net return from a sale of the merchandise than the insured.

Commodities in bulk or packages, dry goods in bolts, and wholesale stocks ordinarily sell better as salvage than do retail stocks.

Taking of stock for salvage should be avoided in losses of doubtful origin and losses involving out-of-date, inferior, contaminated, ill-assorted, or otherwise undesirable merchandise.

Method 3. Sale, Use, or Reconditioning. In some losses, the amount of damage can be kept at a minimum by arranging for the prompt sale of merchandise that, if left where it is, will deteriorate or spoil. Perishable stocks, fresh meat, fruits, vegetables, dairy products, and many other foodstuffs, when involved in loss, must be sold promptly if any value is to be realized. In the normal operation of a grocery store, meat market, or delicatessen the stock must turn over rapidly even when the premises are in order and all refrigerating equipment is working. If the premises are damaged and the equipment is put out of commission, only prompt action will save the stock. Transfer of retail perishable stocks to other refrigerated premises can seldom be made economically. Quick sale to consumers is almost always the only way that such stocks should be handled. Sale should be made by the insured under whatever check the adjuster deems advisable. Its result will establish the amount of loss.

Immediate use will at times prevent loss or damage of wet merchandise. Gray goods, raw furs, hides, and skins are examples. If wet gray goods can be moved at once to a bleaching and finishing plant and processed without delay, they will often be returned to the owner without loss, or with only slight damage. If left uncared for, very serious loss can be done by mildew. Wet raw furs, hides, or skins, if sent at once to the dressers, tanners, wool scourers, or other processing agents who would normally handle them, will also often be returned without loss. In such situations the insurance loss will be limited to extra costs of handling, if any, plus the amount of any damage due to the wetting that is found upon inspection of the finished merchandise.

Green coffee that has been wet should go at once to the roasters, and wet, unground pepper and spices to the pepper and spice grinders, as drying is one of the normal steps in handling.

In many metal-worker losses rusted parts should be sent through pickle baths or polishing processes and afterward inspected, with rejection of the parts that have failed to come through in serviceable condition.

Merchandise that has absorbed the odors of smoke can, in many instances, be restored to good condition by smoke-odor treatment. Odors absorbed from stench bombs are often neutralized in the same way.¹

Lots of finished stock should, in some instances, be repacked or relabeled.

Use of method 3 must be limited to instances in which the insured is trustworthy and competent and can be relied upon to sell, have processed, or recondition merchandise prudently and account for the results accurately and honestly.

Method 4. Books and Records. Resort to books and records becomes necessary when a loss involves an appreciable quantity of out-of-sight merchandise. Honestly and accurately kept books and records will very closely reflect the value of the merchandise. They will not, however, show removals of stock due to theft. Their showing may be distorted by mistakes of employees in handling merchandise and the memoranda covering it. There is often a lag between the movement of a unit or lot of merchandise and the book entry recording the movement. Books should, therefore, be examined and their showing checked against all other evidence indicating value, and not considered alone.²

Method 5. Space, Debris, or Other Physical Evidence. Method 5 should be used when the physical evidence is conclusive. When the property can be counted, weighed, or measured after a loss with the same result as before the loss, no better evidence of its quantity can be had. If the space it occupied can be definitely determined and measured, its cubic content can be determined. A tank cannot hold more than so many gallons; a bin of known size, no more than so many bushels. If the property is broken into bits but no part of it is lost, its weight can be established by collecting and weighing the bits. In some losses, evidence of the value of masses of shattered bottles or piles of broken mirrors can be determined by weighing the fragments of glass.

Classes of Stocks, Methods Used. Classing stocks as retail, wholesale, single-commodity, and manufacturing, the subsections that follow will discuss the way losses on damaged merchandise are generally adjusted.

¹ See Appendix F.

² See Chap. 14.

Retail Stocks. Retail stocks are sold in a great number of relatively small transactions to customers who usually select their purchases after making a personal inspection. The retailer, therefore, has the best opportunity of all merchants for selling damaged articles. Damaged articles, however, cannot be sold by stores that cater to a high-price trade or that do a large credit business. High-price trade does not ordinarily care to buy damaged articles, and credit customers who make such purchases are prone to return them. But stores that sell to the low-price trade can often conduct a fire sale so as to profit by the venture. A fire sale will show the best results if held in a large community of people whose incomes are small.

Retail-stock losses should be adjusted by agreeing on the amount of loss, as retail stocks can seldom be salvaged to advantage. The amount of loss is determined by considering how much the prices must be reduced in order to move the merchandise. The multiplicity of articles in a retail stock makes salvage operations difficult. Buyers seldom take over an entire stock and will offer very little for many of the mixed or broken lots ordinarily found in a retail stock. At rare intervals, these stocks are sold out at retail on the insured's premises by a salvor working with the adjuster. Such an operation is to be resorted to only in extreme cases, for it seldom produces the desired result. Depreciation in retail stocks is brought about by the presence of broken lots, by poorly selected merchandise, or by poor storekeeping. Appraisals of retail stock losses have not shown satisfactory results.

Wholesale Stocks. Dry goods, hardware, groceries, paper, paints, furniture, and kindred commodities are often carried by wholesalers whose stock usually comprises a variety of commodities or articles. Such stocks are distributed to retailers who buy from catalogues or samples, or according to oral or written statements made by the wholesaler or his salesmen, and who seldom come to the premises to inspect the goods. Stocks of this class can seldom be sold to regular customers after being severely damaged and, when so damaged, are proper subjects for salvage operations. While merchandise such as cotton or other dry goods in bolts can occasionally be refinished or dyed a dark color and made salable, merchandise such as paper may be so injured that it can be used only as pulp stock for making pasteboard. Some hardware stocks that have been wet can be saved, but others will deteriorate to a condition that leaves them fit for nothing but pushcart or bargain-store trade. Moderate damage to

many stocks may do no more than reduce the merchandise affected from first to second grade, which the insured's trade will absorb at a proper reduction in price. Slight damage may bring no greater monetary loss than the cost of repacking or relabeling. A stock of canned goods on which the labels have been injured by wetting can, if handled properly, be cleaned, relabeled, and sold for full prices. Depreciation in wholesale stocks is brought about by the accumulation of broken lots, by the presence of old merchandise that has failed to move, and by poor storage. Appraisals of losses on wholesale stocks have generally shown fairly satisfactory results.

Single Commodities. Grain, cotton, wool, fertilizers, oils, lumber, hides, sugar, and tobacco are typical single commodities handled in bulk or in packages. When these come into the hands of producers or dealers who concentrate them in order to sell to manufacturers or other distributors, they are generally graded and classed according to market rules or customs. Thereafter they are sold by the grade or class, the purchasers generally giving their orders without seeing the merchandise. In some cases a sample is submitted. These selling methods are responsible for numerous claims against the sellers, who are charged by the purchasers with having delivered merchandise that is not up to standard grade or class, or is inferior to the sample submitted.

The amount of loss on a stock of this kind will generally depend upon the possibility of reconditioning, or the ability of the trade to absorb the damaged goods. If reconditioning will make the stock available for delivery in as good condition as it was before the fire, the cost of reconditioning, added to the cost of making up any loss in quantity, will normally be the measure of loss sustained. If, however, the reconditioned stock will be of a lower grade or class than before the fire, there will be a greater loss. If the insured and the adjuster can agree on the probable outturn of the reconditioned stock, the loss can be adjusted for a definite sum of money, and the merchandise left in possession of the insured. In some cases the insured and the adjuster will agree that the stock shall be reconditioned without delay, an account kept of the reconditioning charges, and the adjustment completed after the reconditioned goods are put in order for inspection.

In all cases the insured's ability to market his damaged merchandise is a question for discussion. Often he will be reluctant to handle reconditioned stock, because of his experience with rejections or claims. If his

selling market is limited to customers who can use only goods of the first grade or class, he will have no outlet for the lower grade or class of a reconditioned stock. When a case of this sort presents itself, a satisfactory result will generally be obtained if the goods are sold as salvage. Salvage operations are justified in a higher percentage of single-commodity losses than in any other kind and, when handled with the help of good salvors, usually turn out well.

Depreciation is generally an unimportant factor in well-kept stocks of commodities. Poor storage, handling, or packing, however, will bring about a loss in value in almost any kind of merchandise. Products subject to mildew will deteriorate rapidly if kept in a damp warehouse. Cotton seed in bulk will ferment and spoil if the seed was wet at the time of being stored. Hides not allowed a proper circulation of air deteriorate, sometimes to the extent of rotting. Cotton that lies too long on wet ground suffers "country damage." The constant rejection, when shipping out orders, of knotty or otherwise faulty pieces of lumber leaves an excessive percentage of culls in a lumber stock. Appraisals of single-commodity losses have usually given satisfactory results.

Manufacturing Stocks. The stock of a manufacturer is generally divided into raw material, stock in process of manufacture, and finished merchandise. The raw material is frequently the same as that found in single-commodity losses. The finished merchandise is the same as the same item or items in a wholesale stock. Stock in process of manufacture is, however, quite different from anything found in other kinds of losses. Because it is made up of parts or combinations of parts of the manufacturer's product, it is usually valuable only if it can be reconditioned and finished by the insured himself. For this reason, it is the portion of the stock that is often the most difficult to handle, either as damaged goods or by sale as salvage.

The manufacturer faces the same trouble as the wholesaler in distributing damaged merchandise, because the customer does not always see it before delivery. Consequently, finished merchandise, in many losses involving manufacturers' stocks, is a fit subject for salvage operations. Depreciation results from poor selection or storage, or from changing demands, which leave on the manufacturer's hands accumulations of unsalable goods. Appraisals of manufacturers' stocks have usually shown fairly satisfactory results.

Endangered or Lost Property. The adjuster does not often learn of threatening situations soon enough to reach the scene and participate in directing the moving of merchandise to a place of safety. Occasionally he will be consulted by telephone. Store owners carrying flood insurance sometimes seek advice as to moving merchandise out of basements to higher levels as the flood crest on an exposing river approaches. Oil-tank operators are well versed in the practice of pumping out from the bottom the oil in a tank that is burning at the top.

Coal piles, cotton warehouses, and cotton-seed houses are often involved in fires that are difficult to extinguish, and the adjuster may be called upon to supplement fire-fighting efforts by authorizing the expense of the labor and equipment called for by the situation. Burning coal piles are often cut into sections by power shovels, thus preventing spread of the fire, and much of the coal in the burning sections is saved by scooping it up and loading it on cars before it has actually taken fire or become too hot to be handled safely. The Underwriters Salvage Company has special equipment designed for handling burning cotton bales. Fires in cotton-seed piles are sometimes extinguished by piping carbonic-acid gas into the burning pockets in the mass of seed.

Merchandise buried under building debris or dropped into water by the destruction of a pier is often recovered by wrecking or diving operations. In such situations, the adjuster must decide whether the work should be done independently for the benefit of the merchandise interests or in cooperation with other interests that may be involved on account of structure, equipment, contents, or time element covers.

Protection from Further Damage. After a stock has been involved in a fire, explosion, windstorm, or other casualty, the merchandise that has not been lost or destroyed may be subject to further damage unless steps are taken to protect it. The methods described in Chap. 11 for protecting personal property in use are also employed to protect merchandise.

In some situations, special methods are necessary. Perishables, such as vegetables, fruits, and fresh meats, are frequently saved by being immediately distributed to retailers or consumers before deterioration sets in. Wholesale stocks of meats and dairy products in cold storage must at times be transferred to other cold-storage plants if the premises affected by the casualty have been damaged and cannot be repaired in time to

prevent a rise in temperature, or if the refrigerating machinery has been put out of commission and cannot be restored to operation promptly.

If merchandise is submerged in a flooded basement, the water must be evacuated so that the goods can be taken out. If the drains are clogged, they must be opened. If there are no drains or the drainage is inadequate, bailing or pumping will be necessary. If steam is available, steam jets may be used instead of pumps.

Certain products awaiting processing can be saved from further damage after being water-soaked by being sent to the processor for immediate processing. A stock of raw furs, if wet, should be sent at once to the dressers, where, ordinarily, the furs can be dressed without appreciable loss. Following casualties in laundries, the wet clothing should be promptly sent through the washing and drying processes unless the machinery has been disabled. Wet woolen piece goods that were ready for sponging should be sent to sponging plants, while wet cotton, silk, or synthetic fabrics ready for finishing or dyeing should be sent to bleacheries, finishing plants, or dyeing plants for immediate handling.

Wet merchandise, however, generally requires separation and drying. In warm, sunny sections of the country, much drying of piece goods and garments is done by spreading or hanging the articles in open lots or on the flat roofs of stores or other buildings. In the larger cities where equipment is available, wet stocks of such articles are sent through mechanical driers. Yard goods and garments in great number go through the driers maintained by the Underwriters Salvage Company in several of its larger warehouses.

In cities, where the services of competent salvors are available, many wet stocks are promptly removed from the premises where they were damaged, and separated and dried by the salvors, thus reducing the damage to a minimum. The work is done under agreement between the insured and the adjuster, which is generally reduced to writing to prevent misunderstandings. In the New York metropolitan area, the practice is spoken of as *removal for better protection*. The moving and drying often precede the making of an inventory of the merchandise, as all efforts are directed toward getting the stock out of the damaged premises and into mechanical or other drying processes with the least possible delay. When the drying has been finished, the stock is sorted and inventoried on the premises of the salvor.

Merchandise that is susceptible to damage by rain but must, for one reason or another, remain out of doors, should, if the value warrants the expense, be covered by temporary sheds or tarpaulins.

Expense incurred by the insured in protecting merchandise from further damage, to the extent that it reduces loss, is, in practice, accepted as part of the loss and is collectible out of the insurance, subject to contribution or coinsurance provisions.

Separation and Putting in Order. In many stock losses, particularly those of small or moderate size, the insured, acting on his own initiative or under the advice of his agent, broker, or public adjuster, separates his damaged merchandise from the undamaged without awaiting the arrival of the adjuster. He will dry such things as wet garments, sometimes even pressing them, wipe or grease pieces of wet furniture or articles of hardware, and often arrange the property so that it will be easy for the adjuster to count, weigh, or measure it. In other losses, however, he does nothing until after the adjuster arrives and goes over the situation with him.

When the adjuster finds that no separation has been made, it will generally be advisable to make a joint examination of the stock with the insured and try to agree upon what merchandise is damaged and what undamaged, also how the separation should be made and the merchandise put in order.

There are many times when, for one reason or another, joint examination cannot be made. At such times, the adjuster should advise the insured to go carefully over the stock, satisfy himself as to what is damaged, and make a physical separation unless the damaged merchandise can remain where it is without danger of deteriorating or spreading damage to the undamaged merchandise. Sometimes, tagging, marking, or listing of the damaged articles or lots will make a practical separation. Such a practical separation saves labor and will suffice if the merchandise can be properly examined where it is. If it cannot, physical separation becomes necessary.

Separation is sometimes made by authorizing the insured to deliver or ship all merchandise that is undamaged, recording quantities and setting aside the damaged merchandise as it is reached.

In order to make a proper separation of some stocks, it may be necessary to remove debris that blocks access to the merchandise or chokes the floor space needed to spread it out or to brace weakened parts of a building that are dangerous, so that men may work in it.

Whenever the condition of a stock will permit a definite separation of damaged from undamaged merchandise, separation should be made, although at times, spotty or irregular damage makes definite separation too expensive to warrant the work.

When an entire stock is damaged, no separation is required by the terms of the New York Standard Fire Policy.

Separating the damaged merchandise from the undamaged and putting both in the best possible order prepare a stock for examination by the adjuster or by a salvage buyer. After this, the adjuster can make a sufficiently dependable estimate of the amount of damage to offer a settlement, and the salvage buyer will know the condition of whatever part of the stock he is asked to bid on.

Under the requirement in a standard fire policy that the insured separate damaged and undamaged personal property and put it in the best possible order, the cost of separating and putting in order falls on the insured. In serious losses, however, the work of separation and putting in order is often treated as part of a general salvaging operation in which the damaged merchandise is, itself, separated and put in order for use or sale, sometimes as is, sometimes after being reconditioned. Such an operation is ordinarily conducted by a salvor. In such losses, the expense is treated as part of the cost of salvaging.

There follow a few illustrations of how separation and putting in order are usually done:

Bulk commodities, partly damaged, can generally be separated into sound and damaged lots. Wheat, cotton seed, or bulk acid phosphate that has been damaged by the burning of an elevator, seed house, or shed in which it was stored and by water from the hose streams used on the fire will ordinarily have a worthless layer on top, a wet layer of some value underneath, and a dry, undamaged mass below this layer. The top will be shoveled off and dumped, the wet sold as damaged, and the sound recovered and stored in undamaged premises.

Packaged stocks should have the damaged bags, bales, or packages separated from the undamaged and both kinds stacked or otherwise arranged in orderly fashion. Bagged sugar, baled cotton, cases of shoes or cloth, cartons of bottled or canned goods, and a great variety of other commodities or articles packed in wrappings or containers are handled in this way.

Retail stocks should have the articles separated according to their character, the kind of damage they have suffered, and the space available in the store for handling them.

In handling any kind of stock, the damaged units or articles that are not worth saving should be set aside, counted, and held, pending adjustment.

Inventory. After the damaged merchandise has been separated from the undamaged and put in order, an inventory should be made. The inventory required by the New York Standard Policy is

a complete inventory of the damaged and undamaged personal property, showing in detail quantities, costs, actual cash value and amount of loss claimed.

In mercantile and manufacturing operations, merchandise is inventoried by count, weight, or measurement, as dozens of garments, tons of coal, gallons of oil, or yards of cloth. The details of an inventory are (1) quantities, (2) descriptions, and (3) prices. Treatment of these details differs in the different trades and industries, often, also, in different businesses and organizations within a trade or industry, according to the special information as to stock on hand that may be desirable.

The work of making inventories ranges from the simple task of the small owner, who counts, lists, and prices his merchandise on hand at a given date, to the highly specialized operations of inventorying the stock of a large department store or manufacturing plant.

Specially designed sheets, mechanical aids, trained inventory-taking crews, and routines developed by experience are used by large organizations to reduce the time and expense needed to count, weigh, or measure stock and to describe and list it.

In the great majority of losses involving merchandise, the adjuster must check an inventory made by the insured after the casualty or help him make one. He should learn all he can about the methods that are ordinarily used in inventorying the kinds of merchandise with which he most often comes in contact. In the more important losses in areas covered by the operations of competent salvors, many of the inventories submitted by the claimants are, at the adjuster's direction, checked by a salvor. Many inventories, however, are made jointly by the salvor and the insured.

Quantities are determined by counting, weighing, or measuring. Counting can often be expedited by making a count in a unit of area, a single

bin, when all bins are of the same size, or a single section, and multiplying the result by the number of the units, bins, or sections. The count of the small articles in a pound—screws, bolts, or nuts, for example—can be made, and thereafter the articles can be weighed and their number almost exactly determined. In some industries, automatic machines have been developed that count articles, some machines even sorting the articles according to sizes and delivering them in counted lots.

Commodities in bulk that are sold by weight would not often be inventoried if it were necessary to weigh the poundage or tonnage on hand at the inventory date. A large quantity of any commodity, powdered, granulated, or in lumps, would require too much time and expense for power or labor to transfer, by hand or mechanically, into boxes or bags that could be weighed. Weight is, therefore, satisfactorily determined by measuring size and computing volume. When commodities are stored in bins or sections of a structure of known dimensions, their volume and, from it, their weight can be determined. Sometimes such commodities are accumulated in conical or moundlike piles. When they are, the volume is determined by the engineering method of making measurements and the geometrical formula for computing the cubic content of the type of pile.

Lineal measurement, ordinarily a slow procedure with tape or rule, is made speedy when the yardage in bolts of cloth is run through a measuring machine or spotted with only a small margin of error by a mechanical device used in many stores.

Descriptions taken from invoices covering the purchases or sales of a particular kind of merchandise will identify it and aid in pricing the inventory. Descriptions of commodities should include type and grade or quality. Cotton, for example, may be of the short-staple or long-staple type and of middling, strict middling, or good middling grade. Descriptions of packaged goods should show the different sizes of the packages when there is more than one size. When the same kind of merchandise is handled in different sizes, shapes, or colors, it is important to include them in descriptions. Models or styles should be included. In many businesses stock numbers are allotted to the various kinds of articles sold. These make effective descriptions. Rejected articles and secondhand articles acquired by repossession, trade-in, or purchase should be so described. Descriptions should show whether articles or lots in a manufacturing plant are raw material, in process, or finished goods.

Prices in a mercantile inventory may be those of acquisition or of replacement. In businesses that use the retail accounting system, the inventory may show selling prices. When priced on a cost basis, there should be a consistent treatment of the cost of freight or other transportation and of trade and cash discounts. Markdowns should be used in making any selling-price inventory.

A manufacturing inventory should ordinarily show prices for raw materials at acquisition or replacement cost and, for stock in process and finished goods, at cost of production or reproduction. If the manufacturer's insurance covers finished stock at market value, less unincurred expense, the inventory prices for finished stock should be those shown on the manufacturer's price list or by his record of recent sales of equivalent quantities; in any case, with deduction for unincurred selling costs.

Making an Inventory. When an inventory is to be made, the premises should, first of all, be cleaned up. Following the fire, windstorm, or other casualty that caused the loss, they are generally in a confused state and littered with debris. In cleaning up, care must be taken not to throw away any of the remains of the merchandise, as these must be held, pending adjustment.

The making of the inventory should follow a plan that will make its check and verification easy. The stock should be sorted; the pieces of any unit, such as the two shoes of a pair or the coat, vest, and pants of a suit should be matched up and the merchandise then arranged on the shelves, counters, tables, racks, or in the bins, following, if possible, the order that existed before the loss. If the fixtures have been destroyed, the merchandise may be laid out on the floor.

Stock from each department should be kept separate and, as far as possible, the articles of each style and price within a department kept together, except that the damaged should be separated from the undamaged, with further separation of the damaged into lots of slight, moderate, and severe damage. Special lots should be made of worthless damaged articles. It is customary to assign a letter to each department to be used as an inventory symbol. Each lot of merchandise should be marked with a numbered tag, which should be conspicuous. If tagging is done before the lots are counted, weighed, or measured, the quantity found can be written on the tag, thus enabling the person or persons who are to write up the inventory to record it promptly. When practicable, a

single lot number may cover an entire section or area if the merchandise within it can be readily checked to the inventory entry or entries and vice versa. Lotting and tagging will expedite any future examination by the adjuster or by the expert, if one is called in to give an opinion on values, damage, or salvage possibilities.

Since those who will follow the maker of the inventory cannot know what he had in mind, no abbreviations should be used in descriptions except those common to the trade or otherwise readily understandable.

All prices should be for the unit of quantity given unless otherwise shown. If the unit is a dozen, the price by the dozen should be given, unless there is a supplementary notation showing that the price is by the gross or the single unit. An accurate count of the items in each lot must be made.

When, because of confusion, quantities cannot be determined, the inventory should be explicitly marked *estimated*, and when prices must be averaged, they must be stated as *averaged*. Unless this is done, they will be assumed to be actual.

If there is doubt or suspicion as to cause of loss or honesty of claim, it is of great importance that the person making the inventory get accurate descriptions as well as an exact count of items. Style numbers, manufacturer's name and number, or other marks of identification on the merchandise should be embraced in descriptions so that all items can be traced to the invoices covering their purchase, or direct to the manufacturer, importer, or dealer from whom they were purchased.

Sizes, styles, and colors in garment stocks will usually indicate whether merchandise is current or obsolete. Original invoices will show its age. If the merchant disposes of desirable sizes, leaving only small or large sizes, the chance of selling the leftovers is greatly reduced, and he must generally mark down prices in order to move them. Styles in women's wear, millinery, novelties, and specialties change almost overnight. This is also true of certain classes of men's wear, though generally to a lesser extent.

If loss has occurred shortly after an inventory of the stock was taken in the regular course of business, it may be possible to save labor by checking the regular inventory against the stock and noting corrections. The corrected inventory can then be copied.

When part of the stock is out of sight and its value must be determined by deducting from the book value of the stock the sound value of the stock

in sight, the inventory should be priced according to the book value of the merchandise. Any merchandise that was listed in the last inventory taken prior to the loss should be inventoried at the prices used in the last inventory, while merchandise purchased since the date of the last inventory should be priced at its actual cost. If this is done, the inventory and the book value of the stock will be on the same basis and deducting the one from the other will show the book value of the stock out of sight.

When all of the stock is in sight, the inventory may be priced at actual or at replacement cost, unless the insurance covers under a reporting form. When such is the case, the inventory should be priced on the same basis as the reports of value, otherwise a strict verification of the last report of value cannot be made.

Spot Checking or Testing an Inventory. If an inventory appears to be correct, circumstances may justify its acceptance without a complete verification. In such cases it is well to make a general examination of the stock, noting whether the lot numbers follow some regular order and whether the material corresponds with the general description. If values appear to be in order, certain lots should be selected at random and accurately counted, following which the price stated should be traced to the bills of purchase or market reports. If a sufficient number of lots are thus tested, a fair idea can be gained as to the general accuracy of the inventory. If material discrepancies are noted in quantities, descriptions, or values, a complete verification or a new inventory should be made. If, however, the lots selected for testing are found to be correct, it is fair to assume that the inventory is reasonably correct and can be accepted. This method is often used when the damage is slight and the claim appears to be in order.

Verifying an Inventory. When an inventory has been furnished by the insured, it will sometimes be advisable to determine with certainty whether it is correct as to all quantities, prices, extensions, and additions. If it has been taken in some definite order, it can be checked with certainty; if not in such order, it may be confusing. If badly out of order, it may be better to make a new one than to try to check it. If it seems to be intelligently prepared, a start should be made by comparing the description of a specific item with the item itself and noting the correctness, incorrectness, or insufficiency of the description. The quantity should be checked, and then the price and the extension. Often, items are consolidated to save time and labor, and prices are averaged, frequently at

too high a figure. Each lot should be carefully counted, weighed, or measured to see that it corresponds with the count, weight, or measurement stated on the inventory. Prices should be checked to invoices. If there is a discrepancy, it should be noted opposite the lot by an entry of the correct figure. The verification being completed, a list of overs and shorts should be compiled, and a final calculation made so that the proper amount may be added to, or deducted from, the inventory, according to the result of the calculation.

Preparation for Discussing Value and Loss. In most stock losses, the adjuster meets a reputable claimant whose insurance has been written by a competent and established producer. The merchandise involved will be new, recently purchased, and in current demand. The amount of loss will not be great nor hard to determine. There will be nothing unusual requiring consideration and, therefore, no need for special preparation by the adjuster before he begins a discussion of value and loss.

In some stock losses, however, the adjuster encounters circumstances that are unusual and must prepare himself to deal with them. Examples are cited in the following paragraphs.

The insured may be a person who is difficult to deal with. Circumstances attending the loss may cast suspicion on him. The property may demand unusual treatment. The loss may be one that involves large quantities, high values, many locations, and extensive damage. Value and loss may be problematical. The taking over of damaged merchandise, because of its character, may be subject to the jurisdiction of the city, county, or state board of health, the U.S. Department of Agriculture, the Customs Service, or the Bureau of Internal Revenue.

Preparation for dealing with a difficult merchant, manufacturer, or other claimant under policies covering a stock of merchandise should begin with efforts to learn his known peculiarities, what experience other adjusters have had with him, and who, if anyone, may have the ability to keep him within the bounds of rectitude. Sometimes, trade associates will be found who are able to persuade a difficult man to be reasonable. Sometimes, there will be an expert to whom the difficult person will listen. In many cases, the producer will be able to do more with him than anyone else, particularly when the producer specializes in handling risks in the insured's trade.¹

¹ Preparation for dealing with a suspected claimant will be discussed in the last part of this section.

A large stock loss may require the inventorying of several locations, moving lots of undamaged merchandise, reconditioning damaged merchandise or selling it, whether as is or after reconditioning, and examination of books and records. In such a loss, much work must be done in order to produce the information that must be in hand before dependable figures of value and loss can be made. Competent help is almost always required; inventory checkers, salvage handlers, value experts, and accountants.

Repeated examinations of the merchandise and close contact with the persons who are inventorying or handling it are necessary to familiarize the adjuster with whatever special problems are presented by the character, condition, or quantity of the merchandise in sight. Adequate study of the records is often necessary as part of the search for information as to the value of the merchandise, whether in, or out of, sight.

Whenever possible, the adjuster should work with his experts so that when their opinions are to be discussed with the insured, he will have them well in mind. If he has followed their work step by step, he will have a much better grasp of their ideas than if he merely reads their reports.

Preparation, when a stock loss is large and complicated, is generally made by arranging for the proper treatment of sizable lots of merchandise and the development and study of a comprehensive body of information bearing on sound value, salvage value, and amount of loss.

The sale of food and drugs is subject to regulation by local boards of health and also by the U.S. Department of Agriculture. In many instances, one of these civil authorities will condemn food or drugs involved in a loss as unfit for use, or will lay down requirements for their treatment before they can be sold. For example, the Department of Agriculture has, in some instances, refused to permit wet wheat to be dried and sold to millers for grinding into flour, but has approved the use of the wheat as poultry or stock feed. In any loss on which one of the civil authorities decides to act, the adjuster should inform himself of the position its representatives intend to take before he begins to discuss value and loss.

When value and loss are problematical, preparation should include the development of the evidence offered by the stock itself, if any part of it is in sight. The adjuster, together with his expert, if he employs one, should examine the merchandise, note its quantity, grade, or quality, if it is a bulk commodity, or the exact description of each lot, if it is a group of

packages or articles. Marks or tags should be examined for cost and selling prices, with special attention to markdowns or price cuts. The kind of damage suffered—fire, smoke, water, breakage, or scattering—should be particularly noted and the degree of damage estimated. The replacement cost of the grade or quality of the commodity, or of each kind of package or article, should then be established.

The replacement cost of staple merchandise in the common trades can ordinarily be established by making an examination of the invoices kept on file by the purchaser. In case of doubt, the sellers should be interviewed and asked to quote prices at which they will sell in the quantities involved. After replacement cost has been established and a proper deduction made for depreciation, the remainder will represent sound value. In periods of steady business conditions, there is seldom any difficulty in establishing the replacement cost of staple merchandise. In periods of commercial depression, however, much conflicting information will develop in connection with prices. If the depression is severe enough, jobbers will sometimes offer to sell the merchandise they have on hand at lower prices than those quoted by manufacturers who would produce the goods only on order. In such periods, it is difficult to determine actual cash value. In any period, prosperous or depressed, the real value of merchandise that has been purchased in job lots, at bankruptcy sales, or from sellers in financial distress is uncertain. Such merchandise will sometimes be incorporated into the stock of an enterprising merchant who will sell it at a substantial profit, possibly getting for it the same prices he gets for new goods of like kind that he has bought in the open market. On the other hand, the merchandise may prove hard to sell and may have to be disposed of at a substantial loss. Its value is entirely dependent on the ability of its possessor to sell it, and no hard and fast rule can be laid down for fixing that value.

The books of a business will often throw much light on the value of merchandise as well as show the prices at which it was purchased. If the books record the selling prices of the individual articles, they should be compared with the cost prices. There is generally a normal rate of markup at which a business must sell its merchandise. If the books show that the goods are being sold at less than this normal rate, the adjuster should try to find the reason for it. Such a condition may indicate a decline in the market. On the other hand, it may indicate the possession of a

badly selected stock, or one that has been run down to the point where sales can be made only at reduced prices. If the books do not show the selling prices of individual articles, some idea of the condition of the stock and, therefore, of its value can be gained from the rate of turnover. Rapid turnover at a normal markup indicates well-selected merchandise, while slow turnover indicates that the merchandise is hard to sell. Merchandise that is hard to sell is not worth the cost of replacing. Its value may be only a small part of original or replacement cost.

When a considerable quantity of merchandise is, or is claimed to be, out of sight, all books and records should be examined before discussing value and loss. If the books are intricate or the entries bearing upon the acquisition and disposition of merchandise voluminous, an accountant should be employed. Any book showing should be checked against whatever physical evidence is to be had as to quantity, such as debris, bin, or tank space, or floor area occupied or fire-marked; also, in doubtful situations, against the statements of persons who knew the stock and are willing to talk.

When the merchandise is in sight and the amount of loss is problematical, it will be advisable, in some situations, to get a firm bid for the salvage from a reliable buyer as a guide to estimating the amount of loss and as evidence to offer in discussion with the insured if his claim seems to be excessive.

Alcoholic beverages, tobacco, and certain drugs are sold under check of the Bureau of Internal Revenue. When losses on such merchandise involve substantial quantities, the reports made to the Bureau should be checked. Customhouse records covering merchandise in bond should be checked when in-bond merchandise is involved.

When fraud is encountered or suspected, the business history of the insured should be developed and all available commercial and credit reports studied. In some instances a merchant whose past record includes bankruptcy or other business embarrassments will have in his premises a stock made up of the odds and ends of various lines of merchandise that have little real value. If the damage to these by fire or other casualty is not so severe as to destroy their identity, their doubtful value will be evident upon examination. If they are destroyed, the history of the insured may indicate the real state of affairs. In suspected claims, everything must be done to establish actual quantities and accurate descriptions of

any merchandise in sight, also its status before the casualty, whether it was new or old, unused or secondhand, sound or previously damaged. Generally, it is best to delay examination of the merchandise and the books until after the insured has presented a claim in writing that will commit him to the story he has told as to what he had on the premises. In serious cases it will be advisable to organize a thoroughgoing investigation by attaching to an expert, who knows the kind of merchandise involved, a field stenographer to whom the expert may dictate his findings as to what the articles are, what they were worth sound, how they have been damaged, and his idea of the amount of loss. At the same time an accountant should be employed and arrangements made to get into his hands as soon as possible transcripts of the expert's dictation. The adjuster should keep in constant contact with both expert and accountant, correlate the information they produce, and furnish each with the leads suggested by the findings or comments of the other. By thus correlating the work of the two, the adjuster will, in the end, produce a history of the stock, evidence of its condition, and, perhaps, evidence indicating intent to defraud the insurer.

Agreeing upon Value and Loss. What should ordinarily be done by the adjuster in his efforts to bring about an agreement with the insured upon the sound value of a stock and the amount of loss will depend upon the method which the adjuster has chosen for making the adjustment. Methods listed in what follows are those already explained in this chapter.¹

Method 1. When merchandise is new, active, worth replacing, and can be replaced, the adjuster should offer to agree upon a sound value computed by adding to the invoice price that the insured would have to pay for a replacement of the quantity of merchandise involved, within a reasonable time after date of loss, the cost of transportation of it to his premises, deducting from the total any discount to be had for making cash payment. In the situation described, the replacement cost is a matter of fact, and the adjuster will not be warranted in agreeing upon a higher or lower figure.

When merchandise is old, inactive, or of a kind that the insured cannot or will not replace, the adjuster may properly elect to estimate its value by applying a percentage of depreciation to the original cost or to the replacement cost, if the merchandise is replaceable, plus transportation

¹ See pp. 370-375.

costs and minus discount. On the other hand, he may deduct from the prices at which the insured has been selling the merchandise the average percentage of markup at which the business is conducted, particularly when the merchandise is of a kind that cannot or will not be replaced. In some instances he will employ an expert familiar with the particular kind of merchandise and estimate the value according to the opinion expressed by the expert. The value of any merchandise fitting the description of this paragraph is a matter of opinion, not of fact, and consequently the adjuster must be prepared to encounter opinions advanced by the insured and his experts at variance with his own and must weigh them carefully. Whenever value is a matter of opinion, the adjuster is warranted in compromising the differences, if he believes that compromise is justified, in order to bring about agreement as to value.

Amount of loss in cases of partial damage is estimated by considering the cost of putting the merchandise in condition to sell and the reduction that must be made in its selling price in order to induce customers to buy it. In some instances the adjuster estimates loss lot by lot, in others he estimates it as a general percentage of the value of the lots or merchandise involved. Unless the damage is such that repacking or reconditioning will restore the merchandise to its original value, any estimate of damage will be largely a matter of opinion. In trying to reach an agreement upon amount of loss, the adjuster must rely upon his ability to support his own opinion by argument and evidence, but must be ready to change his opinion or make reasonable compromise if the insured can show that he is in error. If he has in hand a firm bid for the damaged merchandise, it will establish a top figure for the loss which he should never exceed and which he should rarely agree to if the insured is to keep the merchandise. If the insured can use the damaged merchandise, he should be able to realize more for it than an outsider because he will not have to incur the expense of moving it before selling it.

Method 2. When the merchandise is to be taken over and sold as salvage, or, as the practice is in the New York area, when it is to be sold for the account of the loss, it is only necessary to agree upon the sound value of all merchandise covered by the insurance and, specifically, upon the sound value of the merchandise to be taken over or sold, if only part of all the merchandise covered is involved. How agreement as to value should be reached was discussed in the preceding subsection.

Method 3. When merchandise is used or reconditioned, the sound value of all merchandise covered should be agreed upon as heretofore outlined, and the amount of loss computed by deducting from the sound value the net value of the merchandise made available for use or the net value realized from the sale. When method 3 is used, the amount of loss is ordinarily a matter of arithmetic.

Method 4. When merchandise has been destroyed or otherwise lost and its value must be determined by the showing of the books and records, the amount to be agreed upon should be the book computation of replacement cost, less estimated depreciation. If allowances made in inventories for depreciation as well as markdowns are carried into the books, the book computation will care for depreciation. Values developed from books and records are discussed in detail in Chap. 14.

Method 5. When the value of merchandise destroyed is to be agreed upon according to the physical evidence of space occupied or debris that can be counted, weighed, or measured, the unit value of the merchandise should be agreed upon along the lines laid down in the discussion of method 1, and thereafter multiplied by the number of units indicated as destroyed.

Method 6. When replacement is to be made, it is only necessary to agree upon quantity, grade, or quality. Replacement is very rarely used as a method of adjustment. After replacement, the insured might claim the quality of what was delivered to him, or its condition, was not equal to what he had, and might even sue for a substantial amount.

Check of Claim. Stock claims should be checked for non-stock articles, such as tools, equipment, and floor coverings; for merchandise belonging to others, unless it is covered by reason of the trust-and-commission clause; for merchandise lost or damaged at any location not covered; and for merchandise otherwise insured. Stock claims under fire, windstorm, explosion, and other policies that exclude theft should be checked for loss due to theft.

When claim is based on a value developed from the books and from such value there has been deducted the inventory value of merchandise saved, the inventory value must be checked to determine whether it has been computed on the same price basis as the book value. Overpricing of a salvage inventory will reduce the out-of-sight loss, underpricing will increase it. If the book value, for example, has been developed on the basis

of the actual cost of merchandise and if the inventory of the saved merchandise has been taken at replacement-cost prices that are less than the original-cost prices, a deduction of the inventory total from the book value will give an excessive figure as out-of-sight loss, and vice versa. In like manner, if the inventory total of the saved merchandise is computed on the same price basis as the book value, but part of the saved merchandise was stolen before the inventory was made, a deduction of the inventory total from the book value will give an out-of-sight loss that includes the theft loss.

Appraisals. Appraisals of stock losses have shown rather irregular results and have already been discussed in connection with the various classes of stocks.¹ In recent years the number of stock losses submitted to appraisal has tended to decrease.

Final Papers. The inventory, with proper notations written upon it, or accompanied by a statement setting out all details of the adjustment, should be forwarded with the proof of loss in cases other than those involving the taking or selling of salvage. When salvage is to be sold, the inventory is given to the salvor in order that he may check out the merchandise and be assured that all articles to be taken are delivered to him. The salvor in due course is expected to inform the adjuster of any shortage or overage in the inventory, in order that the adjustment may be made on correct figures. The total of the inventory and any shortage or overage in these cases should be reported by the adjuster, either in the statement of loss or in the letter explaining the adjustment. Any adjuster's agreement should always show the inventory total corrected by shorts or overs, unless made before the inventory is completed, as in the case of moving a stock for better protection. A copy of the agreement should appear among the final papers. If the loss is settled by appraisal, the original award should always be sent to the insurer.

¹ See pp. 375-378.

Salvage and the Use of Salvors

The term *salvage* is variously used by adjusters and loss men to mean (1) all property covered by the insurance that escaped destruction in the fire or other casualty that caused the loss, (2) the damaged property that, following a loss, is to be sold in order to determine the amount of the loss, and (3) the amount of money received from the sale of the damaged property. The last meaning is much better expressed if the amount is referred to as "proceeds from the sale of salvage." The term *salvor* is applied to a person or organization equipped to save, protect, inventory, recondition, and sell damaged property.

The work of saving, protecting, separating, putting in order, and inventorying merchandise has been discussed in the preceding chapter, also the methods by which merchandise losses are adjusted. In some losses, the adjuster agrees with the insured on sound value and amount of loss, and the insured keeps the damaged merchandise to sell or use as he sees fit. In others, adjuster and insured agree upon the sound value or determine it by appraisal, after which the insurer pays the insured the sound value and takes the merchandise which it then sells to reduce its loss. In still others, insured and adjuster, after agreeing upon sound value, also agree that the merchandise shall be sold forthwith and the net proceeds paid the insured who will credit the amount received against his claim.

The adjuster uses the services of salvors for three purposes: (1) to help in saving and protecting merchandise, putting it in order, and inventorying it, (2) to advise him as to sound value and amount of loss, and (3) to sell salvage.

Purposes 1 and 2 have already been noted in the preceding chapter and need only a few words here. The ordinary procedure by which 3 is accomplished will be presented in detail.

In some losses, the adjuster employs a salvor immediately after receiving the assignment; in others, after he discovers circumstances making it advisable for him to seek advice, and in still others, after he has agreed with the insured upon the sound value of the merchandise, or after it has been determined by appraisal.

A variety of circumstances are encountered in the handling and selling of salvage, any of which may require unusual action. In some losses, the premises will be safe, weathertight, and with heat, light, refrigeration, and elevator services in order. The power ordinarily used in the premises will be available. In other losses, they will be dangerous, open to the weather, and dark, the services will be out of commission, and there will be no power. The stock may be accessible, identifiable, and possible of handling without repacking; on the other hand, it may be inaccessible, unidentifiable, and in such condition that it must be put in containers before it can be moved. When heavy concentrations of cotton, grain, fertilizer, packaged foodstuffs, or some other commodities are involved, it is frequently necessary to assemble a large working force and special mechanical equipment in order to handle the situation.

The laws or regulations of civil authorities affecting the merchandise, the coverage of the insurance, and any special provisos as to the treatment of salvage must be considered. While their effects will be the same whether the particular salvage is to be sold by the insured, the adjuster, or a salvor, they will be discussed in connection with the procedure followed when a salvor is employed because they are generally encountered in the more important losses, almost all of which are handled with the aid of salvors.

Under present-day practice, adjusters almost always use the services of a salvor when any salvage is to be sold. There are, however, a few situations in which selling is done by the insured or the adjuster. These will be discussed before outlining the procedure that is followed when a salvor is employed.

The details of accounting for results and seeing that net proceeds are paid to the insurers, the insured, or to others who may be entitled to receive any part of them will be discussed. The papers ordinarily used in salvage transactions will be described.

Procedure When Salvor Is Employed to Help Adjuster. The procedure is informal when the adjuster employs a salvor to help him make an equitable agreement with the insured as to sound value and loss. The

employment is ordinarily arranged orally, either by telephone or by direct contact, and the adjuster and the salvor make joint or separate inspections or examinations. The salvor may or may not be asked by the adjuster to participate in discussions with the insured but, after the loss has been closed, will be asked to file with the adjuster a report stating briefly what he did and also the amounts of value and loss as he estimated them. In some losses, the salvor will be asked to do no more than verify an inventory. Following such losses he will report on the inventory, stating overs and shorts found.

When a salvor is employed to help, his entire bill is chargeable to the insurer or insurers represented by the adjuster employing him. Ordinarily, he presents his bill to the adjuster when he submits his report. In New York City and possibly in some other jurisdictions, the salvor customarily apportions his expenses and his service charge to the various insurers, billing each separately and sending the bills to the adjuster to be approved and forwarded to the insurers with the adjuster's report.

Sale by the Insured. Many merchants and manufacturers regularly dispose of their leftovers, trade-ins, damaged articles or materials, waste, cuttings, or scrap to persons who are able to use or sell them advantageously. These persons are often interested in buying damaged material from an owner whom they know and are willing, in many instances, to pay more for it than strangers. Sales of salvage made by the insured are most often sales of such things as debris, metal scrap, wet cartons, paper, and other packing materials. There are occasions when the insured, if competent and enterprising, can sell salvage of considerable value for a better price than can a professional salvor.

In many packing-house losses, the insured's salesmen will promptly telephone the butchers, hotels, and restaurants to whom they sell to come in and buy at moderate reductions in current prices the fresh meat and meat products in the refrigerator rooms before the rise in temperature due to interrupted refrigeration permits spoiling; producers or wholesalers of commodities that are not easily damaged, such as sulphur, which, when wet, is damaged only to the extent of the cost of drying, can often distribute their merchandise to their own customers by making moderate allowances for the extra cost of handling.

When the insured is to sell the salvage, he ordinarily sells it on the premises. At times, however, he finds it advisable to send it away

for reconditioning and will sell it from the premises where it is reconditioned.

Little difficulty attends the selling of salvage by the insured. Details requiring attention by the adjuster are (1) a definite agreement with the insured as to what he is to sell, (2) a decision whether he should check the selling and the attendant expenses or should accept the insured's record of sales and cost of selling, and (3) seeing to it that the insured clearly understands that the selling is subject to the terms and conditions of his insurance contract, particularly if the insurance is inadequate and coinsurance or contribution requirements will prevent the insured from collecting the full amount of his loss.

When the insured sells salvage, he retains the money received and credits the amount, less any necessary cost of selling, against his loss.

Sale by the Adjuster. Formerly, all selling of salvage was done by adjusters who sometimes would sell out the damaged contents of a retail store at a fire sale. Today, adjusters rarely do any selling. Cargo surveyors, representing the marine-insurance companies, still sell much merchandise for the account of the insured in order to establish damaged values.

As loss work is done today, it is not advisable for an adjuster to sell salvage in any territory where the services of a reliable salvor are available, unless the value involved is small or the situation requires action before it will be possible to bring in the salvor.

When the adjuster sells salvage, he should have the purchaser pay for it by check, drawn to the insured's order, if the loss has not been closed, or to the insurer's order if it has. Exceptions may be made when the expenses of salvaging must be paid or when the salvage proceeds must be apportioned and paid to two or more insurers or other interests.

Sale by Salvor. As salvages are handled today, almost all of those resulting from losses due to fire, windstorm, explosion, sprinkler leakage, or other perils covered by fire-insurance companies are turned over to salvors to be sold on a cost-plus-commission basis. When merchandise is turned over to a salvor, he may find it necessary to remove it to his premises and put it in order if he is to sell it to the best advantage. Or he may sell it from the premises where loss occurred, with little or no reconditioning. In some losses, he will remove part and sell the rest from the scene of the loss. The salvor accounts to the insurers and to any other interests by showing the total of gross sales, expenses in detail, and his

commission, which is based on gross sales. He pays out the net proceeds according to instructions given him by the adjuster who must furnish him with the data necessary for making an apportionment of the proceeds if more than one interest is involved.

Underwriters Salvage Companies. The stock fire-insurance companies have organized and now own two salvage companies, the Underwriters Salvage Company of New York and the Underwriters Salvage Company of Chicago. Between them, they handle and sell more salvage for the fire companies than all other salvors combined.

The former is headquartered in New York City, where it has occupied since 1927 its own sprinklered six-story and basement building. The construction is fire-resistive, with mushroom reinforced concrete floors, and a concrete roof, designed to support an additional floor, should more floor space be required. The premises are under Holmes Protective Service.

The home office, the offices of the New York Department, and the Bankruptcy Department are located on the second floor, which is entirely air-conditioned. The basement is used for storing heavy stock and bankruptcy records, also the company's records. There is a vault for record storage. The first floor is partly a sales floor. Receiving is done on this floor, also some storage of heavy stock. The third floor is available for storage purposes. The fourth floor is the sales floor on which auctions are held. The fifth floor is used to prepare merchandise for sale. The sixth floor is equipped with three driers and a special cold room for fur storage, also storage of woolens. Drying facilities use hot or cold air. Drying racks provide for slow drying of damp articles at room temperatures.

Chutes provide for quick transfer of merchandise to lower floors, and there are two freight elevators. Hydraulic lift trucks handle skids, and there are portable electric and gravity roller conveyors. There is automatic measuring equipment for bolt goods, and polishing equipment for canned goods.

Ordinarily, the staff numbers about 100 persons, special agents, superintendents, truck drivers, laborers, stenographers, and clerks.

Other properties owned or operated by the company include warehouses at Atlanta, Baltimore, Boston, Buffalo, Dallas, Denver, Fresno, Houston, Jacksonville, Little Rock, Los Angeles, Lubbock, Memphis, New Orleans, Oklahoma City, Philadelphia, Pittsburgh, Portland, Ore., Richmond, San Francisco, Seattle, and Spokane. There is a cotton

pickery at Fresno. Automobile salvage depots are located at Bakersfield, Fresno, Los Angeles, Denver, Portland, Ore., Sacramento, San Diego, San Francisco, Seattle, and Spokane.

The company has developed special equipment for handling grain, cotton, and canned-goods salvages.

It services the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

The Underwriters Salvage Company of Chicago is headquartered there in a six-story building built by the company in 1928, with 110,000 square feet of floor space, including a basement. There are all facilities and equipment needed for drying, sorting, reconditioning, and selling damaged merchandise. The company occupies another building in Chicago, with 50,000 square feet of floor space.

Other offices and warehouses are located at Kansas City, Mo., Columbus, Ohio, and Louisville, Ky. The company services the states of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Independent Salvors. In the larger cities there are a number of highly competent independent salvors.

Use and Responsibility of the Salvor. When the adjuster employs a salvor to help him make an equitable agreement with the insured as to value and loss, the salvor participates in the work of saving, protecting, separating, putting in order, and inventorying to the extent that promises the best results. Ordinarily the adjuster will ask for special attention to the verification of the inventory and for the salvor's opinion as to sound value, percentage of damage, and the amount that would be realized if the damaged merchandise were sold as salvage. When the salvor is so employed and used, he is not charged with any responsibility for the safety of the merchandise because it remains in the insured's possession and under his control.

When merchandise is turned over to a salvor under a protection agreement, he ordinarily takes possession of it and moves it to his warehouse or

other premises under his control where he proceeds to put it in order. On taking possession he becomes a bailee and is responsible for the safe-keeping of the merchandise according to the law of the state.

When merchandise is turned over to him under a sales agreement, the salvor generally proceeds as under a protection agreement but goes further and sells the merchandise. While the merchandise is in his possession, his responsibility is the same as under a protection agreement, and upon sale of the merchandise he becomes a trustee, holding the net proceeds of the sale for the benefit of the insured, insurers, or others entitled to payment out of them.

When merchandise is delivered to him under the order of an adjuster who has exercised the company's option and taken it at agreed or appraised value, the salvor is responsible as under a sales agreement.

Whenever the salvor becomes responsible for any merchandise, he customarily covers it under his own insurance.

Procedure When Merchandise Is Turned Over to Salvor. In many instances the adjuster finds that the insured is unable to protect the damaged merchandise and put it in order because he lacks the necessary labor, space, and equipment. In others, the adjuster will have reasons for believing that, if the merchandise is handled by a competent salvor, a greater saving of value will result than if handled by the insured, also that the salvor will produce an accurate inventory in much less time than would be needed if the insured made an inventory and the adjuster had it verified. In such instances, the adjuster, after going over the situation, will propose to the insured that all or some part of the merchandise be turned over to a salvor for protection, putting in order, and inventorying, and that it be turned over without waiting to determine values, damage, interests, or insurance coverage. The insured will agree, the agreement will be put in writing, and the salvor will take possession of the specified merchandise. He will almost always remove it to other premises, generally his own, as by doing so he can handle it better and increase its salvage value. When it has been put in order and inventoried, he will deliver copies of the inventory to the insured and the adjuster, and the two will examine the merchandise.

If they agree upon its sound value and the amount of the loss, the salvor will be paid a fee for his services, plus his expenses, and will return the merchandise to the insured. If insurance equals or exceeds coinsurance or

contribution requirements, the entire bill of the salvor will be paid by the insurer or insurers; if not, the cost is subject to coinsurance or contribution as it is part of the loss.

In many instances, however, the adjuster will find, after discussion with the insured and the salvor, that the salvor can sell the merchandise at a figure that will produce a smaller loss to the insurer than would result from settling the amount of loss with the insured. In such a case he will negotiate an adjustment under which the insured, if adequately covered, will be paid by the insurer for the sound value of the merchandise and will assign his interest in it to the insurer, after which the salvor will sell it and pay to the insurer the net proceeds resulting from its sale. If inadequately covered, the insured will be paid an amount determined by coinsurance or contribution provisions and, after the salvage has been sold, will receive from the salvor a part of the proceeds determined by the deficit in the amount of his insurance.¹

In the New York metropolitan area, the procedure is different. The adjuster does not arrange for the insurers to pay the insured the sound value of the merchandise, if he is adequately covered, or the proportion of the sound value determined by the application of coinsurance or average provisions. Following the procedure employed by cargo surveyors in handling losses under policies of marine insurance, he makes an adjustment stipulating that the merchandise shall be sold and the net proceeds paid to the insured who will then file proof for the difference between the sound value of the merchandise and the amount paid him. Under such an adjustment, the operation of coinsurance or average is determined in a single computation.

In other instances, the merchandise is turned over to the salvor to be sold for account of whom it may concern. He sells the merchandise at his discretion and pays the net proceeds to the insurer, to the insured, or to others entitled to receive them.

In some other instances, the insured protects, separates, puts in order, and inventories the merchandise and afterward discusses value and loss with the adjuster. They do not agree upon the amount of loss. Here the adjuster often works out an agreement with the insured that the insurer shall pay him the sound value of the merchandise and calls in a salvor to take it over and sell it, instructing the salvor to pay the net proceeds to

¹ See Apportionment of Proceeds, p. 413.

the insurer. In the smaller losses, the same result is achieved without calling the salvor to the premises. The adjuster looks over the merchandise with the insured, the two agree upon its sound value, the adjuster prepares proofs of loss for the value and gives the insured written instructions to ship the merchandise to the warehouse of a salvor.

In rare instances, a loss involving merchandise will be appraised, resulting in the award of an amount of loss that the adjuster can reduce by taking the merchandise at the appraised value and selling it. In such instances, he calls in a salvor to sell it.

When merchandise that has not been previously turned over to a salvor under a written agreement is taken, the adjuster should put in the hands of the salvor a letter addressed to the insured instructing him to deliver the merchandise to the salvor. Such a letter is commonly called a *delivery order*.

Whenever merchandise is to be put into the hands of a salvor, the transaction should be covered by a formal written agreement or by a letter or letters.

Bailee Risks. In cotton warehouses, grain elevators, and other bailee risks, a serious damage often produces confusion of goods.¹ Salvage will be mixed and unidentifiable. When such is the case, it is customary to sell the unidentifiable salvage for account of whom it may concern and distribute the net proceeds to the owners, or their insurers if the insurers have paid the losses.

Questions. If merchandise is to be turned over to a salvor, answers to any of the following questions may be important:

1. Are the premises safe for salvage operations and will they protect the merchandise from further damage until it can be removed?

2. If not, should building, equipment, and time-element interests, if any, share in the cost of making them fit to give protection or should the salvor be directed to have the owner of the premises do what is necessary and charge the cost against the work of salvaging the merchandise?

3. Will building-wrecking operations or the removal of heavy equipment be necessary to recover the salvage?

4. If so, has the building owner, the machinery owner, or their insurers made the necessary contracts?

¹See Chap. 16.

5. Will the local board of health, the Department of Agriculture, or other civil authorities having jurisdiction permit the use or sale "as is" of the salvage or will they require special disposition or treatment of it?

6. Should part or all of the merchandise be turned over to the salvor?

7. If in bond, what is necessary to get permit for removal?

8. What will be the fee of the salvor if the insured retains the merchandise or what will be the commission of the salvor if he is directed to sell the merchandise?

9. If the amount of insurance is inadequate and if the insured must bear part of the loss and, therefore, part of the cost of the salvor, has the situation been explained to him and has he been informed as to the salvor's fee or commission?

10. Does the insured ask that the merchandise be removed from the premises by a certain date?

11. Does the insured insist that the merchandise must not be sold in a certain territory or until after removal of marks and brands?

12. Have all charges accrued against the merchandise to the date of turning it over to the salvor been paid by the insured?

13. If the merchandise is turned over to the salvor by a bailee, has he filed with the salvor a list of all property belonging to bailors and a statement of his accrued charges?

Insurer May Take Salvage As Is. In exercising its option to take all or any part of the property at its agreed or appraised value, the insurer may do so without permitting the removal of trade-marks, brands, or labels identifying merchandise as the product of the manufacturer, unless the policy specifically provides to the contrary.

Brand and Label Clause. The company's option to pay the agreed or appraised value of personal property and take the salvage is occasionally modified by a clause permitting the insured to remove identifying marks from salvage or mark the goods taken so that they cannot be handled in trade channels except as damaged articles. The use of such a clause tends to increase the extent of loss because, in the event of salvage operations, its presence will usually result in the salvage being sold at a lower figure than would be obtained if the original marks had not been removed or if the articles had not been marked or branded to show that they were involved in a loss.

Underwriting rules in New York City and in some other territories provide that the following brand and label clause may be attached to policies covering merchandise insured for the account of the original manufacturer of such merchandise. A charge of 10 per cent of the rate on such merchandise (not to exceed \$0.10) shall apply for the use of this clause.

In consideration of \$. . . additional premium and the attachment of this clause as a part of all policies covering the insured property, it is agreed that if branded or labeled merchandise covered by this policy is damaged and the insurer elects to take all or any part of the property at the agreed or appraised value, the insured may at his own expense stamp "salvage" on the merchandise or its containers or may remove the brands or labels, if such stamp or removal will not physically damage the merchandise.

Insurer May Sell Salvage in Any Market. The insurer, on taking salvage, is free to sell it in any legal market. The insured is not entitled, under the policy, to require the insurer to sell in or outside of specified territory.

Salvaging Agreements. Salvaging agreements should always be put in writing. They should be signed by the insured and the adjuster unless the property is in charge of a bailee, such as a warehouseman of baled cotton or the operator of a grain elevator, when it will be advisable to accept the signature of the bailee and commence efforts to save the property without delay.

Two forms of agreement are in common use: one for use when merchandise is to be turned over to a salvor for protection; the other, when it is to be turned over for sale.

Since, in some losses, the entire stock is to be turned over, while in others, only a part, the agreement must clearly specify just what merchandise is to be handled.

Cargo surveyors do not use formal agreements. They address to the insured a letter suggesting that, without prejudice, the merchandise be sold for the purpose of determining its damaged value. Adjusters handling inland-marine losses sometimes proceed in the same way.

Forms of agreement tend to become more simply worded. The adjuster should use a form that is current in his territory. The two Underwriters Salvage Companies will supply them.¹

¹ See Appendix G.

Use of Formal Agreements and Letters. The various steps in the handling and selling of salvage are ordinarily covered by the agreements or letters noted in the following outline:

I. When insured and adjuster turn merchandise over to a salvor under a protection agreement

- A. If negotiations result in an adjustment under which insured is to keep the merchandise and be paid on the basis of an agreed amount of loss
 - 1. Letter from adjuster to salvor directing him to return the merchandise to the insured
- B. If negotiations result in an agreement that stock is to be sold by the salvor
 - 1. Letter from insured to salvor or signature of authorization on protection agreement authorizing salvor to sell stock
 - 2. Letter from adjuster to salvor directing him to sell stock for account of
 - a. The insurers
 - b. The insured
 - c. Whom it may concern

II. When insured and adjuster turn merchandise over to salvor to be inventoried, put in order, and sold

A. Sale agreement

III. When merchandise is taken by adjuster who employs salvor to sell it

- A. Letter from adjuster to salvor instructing him to sell the stock and enclosing
 - 1. Inventory or invoice of stock to be taken
 - 2. Delivery order, signed by the adjuster, directing the insured to deliver the merchandise to the salvor, or,
- B. Letter from adjuster to the insured directing him to ship the merchandise to salvor, and
- C. Letter to salvor enclosing copy of letter to insured, and invoice or inventory of merchandise (letter should direct salvor to sell)

Relation of Adjuster and Salvor. The adjuster is responsible for the outcome of the adjustment, and the salvor is under his authority. Each should ordinarily limit his activities to the duties listed as his in the two

subsections following, but must always cooperate with the other if satisfactory results are to be achieved.

Duties of the Adjuster. The duties of the adjuster in connection with the handling and selling of salvage turned over to a salvor include the following:

I. *When insured and adjuster turn merchandise over to a salvor under a protection agreement the adjuster should*

- A. Decide whether to turn over to the salvor
 1. All of the merchandise in the premises, or
 2. Part of the merchandise
- B. Tell the insured what he thinks it is advisable to do, ask him to read a copy of the protection agreement, and, after he has done so, explain to him how salvaging operations are carried on under it, and
 1. If insurance is adequate, make it clear to the insured that the salvor's costs and expenses will be borne wholly by the insurers; there will be no need to go into details as to salvor's fee or commission, or
 2. If insurance is inadequate, make it equally clear to the insured that he will have to bear part of the fee and expenses as they are part of the loss and subject to the provisions of the coinsurance or average clause; it is obligatory to go into details as to salvor's fee or commission, otherwise there may be a complaint when salvor's bill is presented
- C. Write up the agreement, specifying the merchandise to be handled, join with the insured in executing it, and deliver copies to him and the salvor
- D. Negotiate with any building, equipment, or time-element interests for proper sharing of any expense necessary to make the premises safe or give protection from further damage
- E. Make or provide for proper contacts with such civil authorities as may have special jurisdiction over the merchandise; boards of health, U.S. Department of Agriculture, Bureau of Internal Revenue, or U.S. Customs Service
- F. Watch handling operations and confer with salvor as to expenses incurred and value recovered

- G. Keep himself available for examining promptly any merchandise which, if properly disposed of, will expedite operations or reduce loss on
 - 1. Total-loss merchandise that should be dumped
 - 2. Merchandise that the insured can use advantageously or sell if it can be released for use or sale without delay
- H. Authorize any special expenditures, getting insured's agreement if insurance is inadequate
- I. Give the salvor necessary instructions in writing when merchandise that has been turned over to him under a protection agreement is to be
 - 1. Returned to the insured, or
 - 2. Sold for account of
 - a. The insurers
 - b. The insured, or
 - c. Whom it may concern
- II. *When insured and adjuster turn merchandise over to a salvor to be inventoried, put in order, and sold, the adjuster should*
 - A. Do everything outlined in sections A to I inclusive, under I, also everything outlined under III and IV
- III. *When it has been agreed upon by insured and adjuster that merchandise originally turned over to salvor under a protection agreement is to be sold by him, the adjuster should*
 - A. Give the salvor the benefit of any useful information as to the merchandise that can be gained from an examination of the books of the insured
 - B. Direct to salvor any persons interested in buying the merchandise
 - C. Inform the salvor of any agreement that may have been made with the insured restricting the disposition of the merchandise
 - D. Inform salvor of any agreement made with the insured that the merchandise will be removed from his premises prior to a given date
 - E. See that any removal of marks or brands from the merchandise is done in strict compliance with any marks-and-brands clause in the insurance contract or with the approval of the insurers
 - F. See that the insured pays any accrued charges on merchandise that is to be sold

IV. *When merchandise is taken by adjuster who then employs a salvor to sell it, he should*

- A. Do whatever is pertinent as covered in items *D* and *E*, under I, and *A* to *F*, inclusive, under III
- B. Give the salvor
 1. Inventory or invoice of stock taken, and
 2. Delivery order directing the insured to deliver merchandise to salvor

In all situations, I, II, III, and IV, the adjuster should

- A. Instruct the salvor that any stock to be sold is to be sold for the account of
 1. The insurers
 2. The insured, or
 3. Whom it may concern
- B. Furnish salvor with the information necessary to apportion proceeds and draw checks to insurers or others entitled to payment
- C. Examine the salvor's account and apportionment, criticize it or approve it, and forward copies and checks to the respective insurers or other payees, or instruct salvor as to distribution of checks.

Duties of the Salvor. The duties of the salvor will be determined by the purpose for which he is employed in the particular loss. They can be generalized as follows.

I. *When insured and adjuster turn merchandise over to a salvor under a protection agreement, the salvor should*

- A. Do any necessary work of protection and remove merchandise
- B. Save, separate, and put in order the merchandise worth saving
- C. Inventory the merchandise, having the insured verify quantities and furnish descriptions and prices, sometimes before the merchandise is removed, sometimes afterward
- D. Give the adjuster any proper criticisms of descriptions and an estimate of the amount that the merchandise should bring if sold as salvage

If instructed to return the merchandise to the insured

- E. Check it out to the insured by the inventory, return it to his premises, and get a receipt

- F. Prepare an account of expenses and fee, make any necessary apportionment, and put bill or bills in adjuster's hands for approval and payment or for presentation to the insurers and the insured

If instructed to sell the merchandise (see section below "In all situations")

II. *When insured and adjuster turn merchandise over to a salvor to be inventoried, put in order, and sold, the salvor should*

- A. Do any necessary work of protection and remove merchandise, if advisable
- B. Decide whether to separate, put in order, and recondition or to sell *as is, where is*
- C. Inventory the merchandise, having the insured verify quantities and furnish descriptions and prices, sometimes before the merchandise is removed, sometimes afterward
- D. (see section below "In all situations")

III. *When merchandise is taken by adjuster who employs a salvor to sell it, the salvor should*

- A. Inspect the merchandise and decide where and in what condition to sell it
- B. Verify inventory given him by adjuster and report any overs or shorts to adjuster
- C. (see section below on "In all situations")

In all situations, I, II, or III, salvor should, if instructed to sell

- A. Notify possible buyers or advertise merchandise
- B. Sell
- C. Prepare account of expenses and commission, apportion, if necessary, and forward to adjuster, for approval and delivery, copies of account and apportionment together with checks drawn to the order of each insurer or others entitled to payment, or forward the copies and checks as instructed by the adjuster

Comment. In the preceding sections the author has made a strictly technical presentation of the duties of adjuster and salvor. In practice the work is done with much less formality and rarely develops snarls. With the passage of time, the position of the salvor tends to become more

important, a development that is favored by company ownership of the two Underwriters Salvage Companies.

Account for Which Salvage Is Sold. Salvage is sold for account of (1) the insurers, (2) the insured, or (3) whom it may concern. Selling for account of the insured is termed, in the New York area, *account of the loss*.

Selling is done at the joint order of insured and adjuster except in those cases where the adjuster takes the merchandise and the salvor is not employed until after it has become the property of the insurers.

Following an adjustment in which the adjuster has agreed that the insurers are to pay the insured the cash value of the merchandise and take it, the salvor is instructed to sell it for account of the insurers as it has become their property.

Following an adjustment, as made in the New York metropolitan area, in which the value of the merchandise has been agreed upon and the amount of loss is to be determined by selling the merchandise, paying the proceeds to the insured, and having him base his claim on the difference, the salvor is instructed to sell the merchandise for account of the insured, or account of the loss, as the merchandise is never the property of the insurers.

In situations where it is advisable to sell the merchandise before details as to the payment of the proceeds can be worked out, or when the insured as well as the insurers will be entitled to part of the proceeds, the salvor will be instructed to sell the merchandise for account of whom it may concern. In such situations the merchandise is never the property of the insurers.

Selling Methods. Salvage is sometimes sold at private sale to a buyer who offers a satisfactory price for it. Generally, however, it is sold to the highest bidder after giving all interested buyers the opportunity of examining it. One method of such selling is to advertise the merchandise, often by circulars, and to ask the buyers who come in and examine it to submit sealed bids for all or any part of it, the bids to be opened at a time and place specified in the advertising. Another method is to advertise and afterward sell at public auction.

Preventing Misunderstandings with Buyers. Salvage is offered for sale (1) from the warehouse or other location to which it was removed by the salvor or (2) from the premises where loss occurred. When offered from the warehouse or other premises, it will have been inventoried, the

buyer will know what is to be delivered to him, and there will be little chance of misunderstanding. When, however, salvage is offered for sale from the premises where loss occurred, there may be no inventory and it may even be impossible to see all the merchandise. Under such circumstances, misunderstanding can easily occur.

When badly damaged merchandise is offered for sale on the premises where loss occurred, particularly when it has been mixed or covered by debris, it may be impossible to make an inventory except at a cost that will not be warranted. In such a situation it must be clearly explained to buyers that what is offered is whatever there is within the premises or within a specified space. A clear understanding must also be had as to what shall be done with stock debris, whether the buyer must clean up the premises or will be permitted to take what he wishes and leave the rest.

A clear understanding should be had as to when, where, and how payment is to be made. For example, when merchandise is sold on a definite inventory out of a warehouse, payment should be made before the goods leave the premises. When an indefinite amount of merchandise is being sold, the amount to be determined by what the buyer actually finds in the premises, payment should be made on an estimated basis before the merchandise is removed, with an agreement that proper adjustment shall be made if the quantity found runs over or under the estimated amount.

Apportionment of Proceeds. When merchandise is sold for account of the insurers, each receives from the salvor a check for its proportion, as salvage proceeds are apportioned on the same basis as loss payments.

When merchandise is sold for account of the insured or for account of the loss, no apportionment is necessary. The full amount of the net proceeds is paid to the insured. He deducts the amount from the agreed value of his merchandise and bases his claim on the remainder. If adequately insured, he collects the full amount of his loss; if not, the insurers pay their respective limits of liability, and the insured bears the balance of the loss. Each insurer issues its loss draft, and there is no salvage check for it to handle later.

When merchandise is sold for account of whom it may concern, the proceeds may be paid to the insured, who will account for them in reduction of his loss, or they may be paid to the insurers, as they may have already paid the insured the sound value of his merchandise or may

agree that they will do so. In some losses, however, the insured will also have an interest in the proceeds. Then, an apportionment is made by treating the insured as a coinsurer and paying him his proportion.

EXAMPLE 1

SALE FOR ACCOUNT OF THE INSURERS

Loss as adjusted:			
Sound value.	\$50,000		
Merchandise taken .		\$25,000	
Paid by insurers to insured			\$25,000
			<i>Pays</i>
		<i>Insures</i>	<i>insured</i>
Apportionment of payment:			
Continental.	\$10,000	\$	5,000
Hartford	10,000		5,000
Home.	10,000		5,000
North America	10,000		5,000
North British.	10,000		5,000
	<u>\$50,000</u>		<u>\$25,000</u>
Net proceeds of salvage	\$12,500		
	<i>Insures</i>	<i>Receives</i>	
Apportionment of proceeds:			
Continental.	\$10,000	\$	2,500
Hartford	10,000		2,500
Home.	10,000		2,500
North America	10,000		2,500
North British.	10,000		2,500
	<u>\$50,000</u>		<u>\$12,500</u>

EXAMPLE 2

SALE FOR ACCOUNT OF THE INSURED (ACCOUNT OF THE LOSS)

Loss as adjusted:			
Sound value	\$50,000		
Merchandise damaged		\$25,000	
Net proceeds of salvage paid insured.		<u>12,500</u>	
Net loss to insurers		\$12,500	
			<i>Pays</i>
		<i>Insures</i>	<i>insured</i>
Apportionment of loss:			
Continental.	\$10,000	\$	2,500
Hartford	10,000		2,500
Home.	10,000		2,500
North America	10,000		2,500
North British.	10,000		2,500
	<u>\$50,000</u>		<u>\$12,500</u>

EXAMPLE 3

SALE FOR ACCOUNT OF WHOM IT MAY CONCERN (UNDER 80 PER CENT AVERAGE)
(Insurance and merchandise damaged as above)

Loss as adjusted:

Sound value.	\$100,000
Merchandise turned over to salvor for sale. . . . .	... \$25,000
Under terms of 80 per cent average clause, insurers pay insured	

$$\frac{\$50,000}{80\% \text{ of } \$100,000} \times \$25,000 = \$15,625$$

		<i>Pays</i>
	<i>Insures</i>	<i>insured</i>
Apportionment of payment:		
Continental.	\$10,000	\$ 3,125
Hartford	10,000	3,125
Home.	10,000	3,125
North America.	10,000	3,125
North British.	10,000	3,125
	<u>\$50,000</u>	<u>\$15,625</u>

Net proceeds of salvage \$12,500

	<i>Insures</i>	<i>Pays insured</i>
Apportionment of proceeds:		
Continental.	\$10,000	\$ 1,562.50
Hartford	10,000	1,562.50
Home.	10,000	1,562.50
North America	10,000	1,562 50
North British	10,000	1,562 50
	<u>\$50,000</u>	<u>\$ 7,812.50</u>
Insured, a coinsurer.	30,000	4,687 50
	<u>\$80,000</u>	<u>\$12,500.00</u>

EXAMPLE 4

SALE FOR ACCOUNT OF THE INSURED (ACCOUNT OF THE LOSS)
(UNDER 80 PER CENT AVERAGE)

This is the simplest and most direct method. In the following, the salvage payments shown in Example 3 can be made with one salvage check and only one apportionment will be necessary. Also, the insurers will not have to enter and bank any salvage checks.

Loss as adjusted:

Sound value . . .	\$100,000	
Merchandise turned over to salvor for sale . .		\$25,000
Net proceeds of salvage paid insured . . .		<u>12,500</u>
Net loss to insured . . .		<u>\$12,500</u>
Insured paid by insurers		

$$\frac{\$50,000}{80\% \text{ of } \$100,000} \times \$12,500 = \$7,812.50$$

	<i>Insures</i>	<i>Pays insured</i>
Apportionment of loss:		
Continental	\$10,000	\$1,562 50
Hartford	10,000	1,562 50
Home	10,000	1,562 50
North America	10,000	1,562 50
North British	10,000	<u>1,562.50</u>
	<u>\$50,000</u>	<u>\$7,812 50</u>

While method 4 is simple and direct, it requires the insured to wait for payment by the insurers until after the merchandise has been sold and the amount of net proceeds determined. As the insured ordinarily asks for prompt payment, the use of the method puts pressure on the salvor to sell promptly. In some instances, the prompt selling of the damaged merchandise will be in order; in others, the salvor will get a better price by waiting.

In situations when waiting is in order, pressure on both the insurer and the salvor will be relieved if the adjuster will make an adjustment in which the merchandise, if insurance is adequate, is taken over to be sold for account of the insurers, or, if inadequate, is ordered to be sold for account of whom it may concern. Payment by the insurers can then be made promptly, and the salvor can take the time necessary to develop the best market for the merchandise.

Books and Records

Books and records are the written day-to-day history of a business. They account in detail for all financial and merchandise transactions, in such a way that their totals and summaries can be compiled by the owner or the management to show the results of operations and the financial position of the business. Because of their detail, they contain many facts of value to the adjuster, and it is customary, and usually necessary, in merchandise losses for him to examine them in the course of the adjustment. Through checking, testing, or making computations from them, much information will be brought to light that would remain hidden if examination were limited to the goods themselves.

Books of account contain both quantity and dollar evidence. They show data bearing on the quantities of goods on hand and on their pricing. They are useful in establishing facts necessary to the fixing of both value and loss. The ways in which they are used vary, depending upon the circumstances and extent of each loss. If the goods are in sight and are their own evidence of quantities involved, the books will help to establish the value of the commodity or the articles. If the goods are out of sight, in whole or in part, the books may be the only means of establishing the quantities destroyed and their values.

When books and records are dealt with, one of the adjuster's most difficult tasks is to appraise their reliability. If they are adequately kept and if the entries are properly managed and controlled, they will be correlated with the movement of the merchandise. But the accounting may be inadequate, poorly maintained, or even falsified. The procedure that should be followed by the adjuster in connection with books and records when dealing with either in-sight or out-of-sight merchandise

losses is explained in this chapter, but it is not possible to list all the steps of audit that it may be desirable to employ. The extent to which books of account are relied upon, the methods by which they are checked, and the validity of the conclusions drawn from them are in many respects matters of judgment and cannot be prescribed in detail.

Stock in Sight. When the merchandise is all in sight, it should not be assumed that its value is conclusively established by the price tags. The books sometimes enable the adjuster to determine that articles have been incorrectly listed or priced or that the merchandise should be subject to depreciation. If the books show the history of the stock, its cost, its age, and the rate of selling, they may establish that the merchandise has become hard to sell or is wholly unsalable, because of style, obsolescence, changing demand, defect, or other cause.

Quantities. Even the quantities in sight are not necessarily conclusive. In the case of a small chain of retail stores, a fire happened on Saturday night. The adjuster arrived Monday morning to check the inventory. The stock seemed extremely large for the size of the store. Examination of the records showed that a large number of overstocked items had been transported on Sunday night from another store of the chain about 50 miles away and dumped into the debris in the hope that they would be paid for by the insurer.

Prices. In the haste and confusion of preparing an inventory following a fire, explosion, or windstorm, the insured is often careless in pricing quantities. Test checks against books and records may disclose that units have been priced at figures that apply to dozens.

Rate of Selling. If the books are kept so that the selling prices of specific articles can be compared with the cost prices, the adjuster should not content himself with a verification of the cost prices shown on the inventory but should trace through the books a number of sales in order to determine whether the merchandise was being sold at a normal rate of profit. A claimant may present an inventory priced according to what the merchandise cost him and may submit original invoices to substantiate the prices. The invoices should be examined and the dates appearing on them noted. If the invoices are dated prior to the current season and cover any appreciable quantity of stock, the adjuster will be warranted in assuming that the stock has not sold well and is not worth the cost of replacement. Under such circumstances, it is important that the adjuster

trace a number of sales, as they may show that the goods were sold at less than normal selling prices, perhaps at less than cost. If the tracing is carried out to the extent of following through all sales of a given kind of goods and if the dates of the sales are noted, the adjuster can establish the time at which the stock commenced to be hard to sell. In some cases, however, low selling prices may indicate nothing more serious than a decline in the market for the particular kind of merchandise, which will, therefore, have a replacement cost less than its original cost. If the adjuster finds that a large percentage of sales of standard merchandise were made at less than cost, he may assume that the business is under financial pressure.

When selling prices of individual articles are not shown by the books, the adjuster can generally find in the records some reliable indication of the general condition of the stock. If the inventories taken in the regular course of business have been preserved, he should compare the quantities of various kinds of goods in the inventory taken after the fire with the quantities in the previous inventories. The comparison may show that some lots of stock were on hand for several seasons. If goods of the same kind and in the same quantity appear in one inventory after another and if there are no invoices to show that new goods of the same kind were bought, there is but one conclusion—the goods did not sell. The same type of data may be uncovered from inventory-control records, if they are available.

Freight and Cash Discount. If the method followed by the insured in pricing the goods does not provide for an increase over invoice prices to cover freight charges and for deductions to allow for cash discount, an amount equal to the freight charge necessary to replace the stock should be added to the inventory, and the amount that would be saved by taking all cash discounts should be deducted. If the inventory consists of a few large items on which freights and discounts can be traced, the exact amount of the freight charge and of the cash discount can be determined. If, however, it consists of a great number of lots of different kinds of goods on which freight charges and cash discounts are not uniform, it will be necessary to use average figures. As a rule, the average rate of freight paid and the average rate of cash discount covering a year's purchases will be equitable. These rates can be determined by examining the accounts that cover purchases, freight, and cash discount. Sometimes the average

rates should be modified, particularly if just before the date of the inventory there were large purchases on which the freight charges and the cash discounts are entered in a later period, thus upsetting the yearly average. An illustration of average figures follows:

<i>Year</i>	<i>Purchases</i>	<i>Freight</i>	<i>Rate, per cent</i>	<i>Discounts</i>	<i>Rate, per cent</i>
1947	\$ 35,272.92	\$ 465.03	1 32	\$1,769 18	5 02
1948	24,787 50	313 88	1.27	1,256.13	5.07
1949	28,045.67	406.82	1.45	1,344.83	4 80
1950	35,684.57	465.18	1.30	1,596.37	4 47
1951 (6 mo.)	14,318 19	157 87	1 10	728 06	5 09
	\$138,108 85	\$1,808.78	1 31	\$6,694 57	4 85

Manufacturers' Stocks. The prices applied to stock in the hands of a manufacturer should always be checked against the book records, as these prices are built up by allocating costs of material, direct labor cost, and manufacturing expenses to the various units of production. Whenever accurate cost-finding records are maintained, this work is considerably easier than when costs must be averaged or estimated. Whatever method is used, tests should always be made to ascertain the accuracy of the allocation of costs to the units produced. For instance, if the direct-labor unit charges are applied to the total production quantities, the result should approximate the actual direct-labor payroll. The total production quantities of various classes, when multiplied by the raw-material costs applied to each, should equal approximately the actual cost of raw materials used during the period, as shown by the raw-material purchases adjusted by the increase or decrease in raw-material inventories. Similarly, the amount of overhead expenses included in unit costs of the merchandise produced should be equal to the actual overhead expenses incurred.

If no cost-finding records are maintained, a test check for over-all reliability of claimed costs should be made. The following example will illustrate how this may be done:

Assume that a manufacturer produced five articles, and that the estimated costs used in the inventory are as follows:

<i>Product</i>	<i>Costs</i>
1	\$3 50
2	6 19
3	3 81
4	4 50
5	9 10

Reference to the records discloses the following total expenditures for the year's operations:

Raw materials.	\$ 40,000
Direct labor.	60,000
Overhead expenses.	90,000
Total.	<u>\$190,000</u>

Production for the year was 6,000, 4,000, 3,000, 20,000, and 11,000 units, respectively, for the five articles. An application of the unit costs used in the inventory to the quantities produced during the year would reveal a considerable overstatement of the inventory unit prices, as follows:

<i>Product</i>	<i>Units</i>	<i>Inventory unit cost</i>	<i>Total</i>
1	6,000	\$3.50	\$ 21,000
2	4,000	6 19	24,760
3	3,000	3 81	11,430
4	20,000	4 50	90,000
5	11,000	9 10	<u>100,100</u>
Total. . . . .	.....		\$247,290
Total actual cost. . . . .	.....		<u>190,000</u>
Difference. . . . .		..	\$ 57,290

In instances where adequate cost-finding records are available, consideration of the principles used in the allocation of costs should indicate the figures that need to be verified. For example, if the cost records show the use of a fixed or standard percentage of direct-labor cost as the charge for overhead expenses against units of production, the total of such overhead included in the costs should be compared with the actual overhead incurred. It may be found that a plant has a total actual overhead expense of \$300,000, whereas the application of the standard overhead rate of 150 per cent to a direct-labor cost of \$250,000 resulted in the erroneous

inclusion of \$375,000 as overhead. This would mean that the unit cost of each item of production was overstated.

Test checks of these sorts are intended to indicate the general accuracy of the cost-finding records but do not establish the accuracy of allocation of costs to the various products manufactured. In all instances, the procedure of making a satisfactory test of the insured's costs is dependent upon the sufficiency and accuracy of the records available.

Miscellaneous. A general examination of the books is warranted in many cases, even though all of the stock is in sight. The rate of stock turnover is worth knowing, as it reflects the general condition of the business. Likewise the rate of profit, the trend of the business, and the relation of indebtedness to assets should be determined whenever a serious loss has occurred.

Stock Out of Sight. The quantities of merchandise burned out of sight may occasionally be determined by making measurements of the space that it occupied. If the length, breadth, and height of the space can be measured, the quantity of the merchandise can be approximated and its value determined. It is, however, seldom possible for the adjuster to make accurate measurements when any considerable loss has occurred, as the premises are generally wrecked and do not show one or more of the points where measurements should begin or end. For this reason, the majority of losses involving considerable quantities of stock out of sight are necessarily adjusted on the evidence furnished by the books and records of the insured.

Determination of the value of the destroyed merchandise from evidence furnished by the books and records is generally made by one of two methods, either of which should be corroborated by the other whenever possible.

1. The *book-statement* method, whereby an approximate computation of the stock value *in total* is determined from the financial accounts of inventories, sales, and purchases

2. The *unit or quantity-analysis* method, whereby an approximate determination of the stock in units is made either (a) by reference to perpetual-inventory unit records, if available, or (b) by adjusting the insured's last inventory listings for all interim purchases and sales in units to the date of the loss

The valuation of stock on hand produced by the book-statement method is one in which quantity and prices are not determined separately but

value is determined in total (or by major classes). Regardless of the method employed, verification of the books and records by the adjuster, possibly aided by a certified public accountant, must usually be undertaken to substantiate the claim for loss when all or part of the stock is out of sight.

Books and records may be quite simple. In some cases a single warehouse receipt or a single invoice will be adequate proof of the insured's loss. In other cases, a complete set of books, reflecting the results of numerous transactions over a considerable period of time, may have to be examined. Such a set of books may cover business done at a number of different locations or in a number of departments. Any complete set of books, correctly kept, will show in one way or another the costs and quantities of commodities or articles purchased or manufactured and the amount realized from sales. Perpetual-inventory records may not be kept in terms of money but generally show quantities received and quantities delivered. Warehouse and department records sometimes deal in quantities only. After familiarizing himself with the entries appearing in such records, a person proficient in accounting methods can evolve a statement that will show the cost or quantity of merchandise that should be on hand at a given date. This cost or quantity is, of course, theoretical but, in the absence of better evidence, is accepted in lieu of the physical inventory that the insured is required by the terms of the policy to furnish. It is often termed the *theoretical inventory*.

A *book statement* (which is a theoretical inventory but in money amounts only) may be quite simple or highly complicated, depending upon how many entries must be summarized in its preparation. If the entire stock on hand consists of a single purchase of merchandise, there may be only a single invoice or a single purchase entry to consider. But if the stock of an active business that has been in existence for several years is destroyed, the book statement must commence with the amount of the last inventory taken before the loss and must summarize all entries of purchases and sales, together with charges and credits affecting them, from the date of that inventory to the date of the loss. To support the book statement, it is necessary for the adjuster or accountant to review the showing of the books and records for one or more prior years.

Theory of Book Statement. The book statement of stock value is based on the fact that the books of the business show its history and that, from these books, the present condition of the business can be established. Because purchases and sales of merchandise have been recorded as they

occurred, the cost of stock on hand can be established without counting, weighing, or measuring it. If the cost of all goods sold is deducted from the total cost of all goods taken into the premises, the remainder will represent the cost of stock on hand. The total cost of all goods taken into the premises is made up of the totals of the last inventory and the subsequent purchases, and also any charges such as freight, trucking, or express necessary to receive the merchandise. Cost of materials may be reduced as a result of cash discounts taken. In the case of a manufacturer, there are also charges for labor and factory overhead which enter into the cost of production.

Accountants sometimes refer to the book statement as a computation of inventory on the gross-profit basis. As the record of merchandise sold seldom shows its cost, this cost is theoretically determined by deducting a percentage of gross profit (or known margin of markup) from the amount of the sales. This percentage is obtained by finding the gross profit earned in the past and adjusting it for known changes in conditions affecting the business to arrive at the approximate gross profit earned during the period under consideration. The method is based on the proposition that the relationship between sales and cost of goods sold should be fairly constant from year to year in the same business, unless the books themselves show a reason for variation or unless a varying factor in business conditions is known to exist. Much of the work of the adjuster or of the accountant employed to examine merchandise claims is devoted to a proper determination of the relationship between sales and cost of goods sold.

It is important for the adjuster to understand fully the principles on which the book statement is based. These principles are demonstrated by the following oversimplified illustration:

Last physical inventory before fire, Jan. 1	\$100,000
Purchases, Jan. 1 to date of fire, Mar. 16, including freight-in, and after deducting cash discounts	50,000
	<u>\$150,000</u>
Less goods removed by sale to customers from Jan. 1 to Mar. 16:	
Sales, at selling prices, after deducting returns, allowances, and discounts	\$75,000
Less average markup (gross profit) realized on sales, as established by previous history of the business, 20%	15,000
Goods removed at cost	<u>60,000</u>
Stock on hand at the time of the fire	\$ 90,000

No loss should be adjusted on the uncorroborated evidence of the books unless the stock and the premises have been so badly burned that a complete physical inventory cannot be taken or approximated. While books are indeed evidence bearing on the possession and cost of merchandise, they are not the conclusive evidence that is offered by the merchandise itself. At best, a statement prepared from the books is only a calculation of what ought to be on hand. If the statement is prepared shortly after the taking of an accurate inventory, the result will be more trustworthy than if it is prepared many months later, during which time numerous purchases and sales have operated to change the amount of stock on hand.

The book-statement method will be more readily understood if it is remembered that it is a substitute for a physical inventory in dollars at the time of the loss. The assumption upon which it is based is the consistent effect of the expenditure of money; for example, in the case of a manufacturing business, it is assumed that a given expenditure will produce, under representative conditions, a given number of units. It follows that the number of units indicated by the value shown in the book statement may be distorted by changes in conditions during the period under consideration as compared with the prior periods from which the rate of gross profit has been determined.

A manufacturing plant that maintains a fairly uniform flow of production throughout the year would ordinarily produce the same number of units at the same cost during any two periods of equal length. On the other hand, consider a seasonal business that produced one-third of its annual production during the first half of the year, and two-thirds during the remainder of the year. Depending on the cost system in use, the units manufactured during the first half of the year might carry a much larger portion of the fixed or nonvariable expenses, such as depreciation, insurance, rent, and taxes. In this case, to avoid an overstatement of stock on hand, it is necessary to reapportion the nonvariable expenses before preparing the book statement.

In preparing the book statement of loss it is well to bear in mind that, while the basic principles of accounting hold good with respect to all businesses, the details of bookkeeping are subject to many individual peculiarities. Add to this condition the many possible errors of omission or commission due to ignorance, together with the occasional misuse or alteration of entries to accomplish fraud, and it will be seen that the task

presented can easily be full of difficulties. It is necessary that errors of all kinds be eliminated from the books as early in the examination as possible, and that some understanding of the peculiarities of the set of books he is dealing with be acquired by the adjuster or accountant. Afterward he can devote his attention to testing the authenticity of the records and, with their degree of authenticity established, evaluate them as evidence of the cost of stock on hand at the time of the loss.

Verification of the results shown in the book statement resolves itself into two distinct procedures: (1) proving the reliability of the principal known components, these being the starting inventory, the cost of purchases or production, the sales, and the gross-profit percentage, and (2) establishing the location of the destroyed merchandise determined by the calculation. In the process of testing the reliability of the component accounts, it is necessary also to determine whether treatment of the transactions comprised within them has been consistent. Any inconsistency of treatment can create error in the final result. For example, if, in arriving at the gross-profit experience of the business, such items as cash discounts or freight on purchases are deducted from the cost of merchandise acquired, they must also be deducted from purchases in the period of the book-statement computation. The accuracy of the book statement depends to a large degree upon uniformity of treatment of each component.

As to the first procedure, that of proving accuracy, it is vital to verify the reliability of the factors of opening inventory, cost of purchases or production, amount of sales, and the gross-profit percentage for the period under consideration, as these items will become direct factors in substantiating the insured's claim. Likewise it is mandatory to test the accuracy of the gross-profit percentage of one or more preceding years, as the gross-profit percentage to be used is a highly important element in the computation. Verification of each of the four factors will be considered separately, though it is to be remembered that the procedures suggested are merely indicative and not all-inclusive. It must be remembered also that particular industries are subject to operating customs and peculiarities that should be studied thoroughly in conjunction with the books to determine the influence of their unusual factors on the ultimate loss computation.

Inventories. In the ordinary course of business, physical inventories are taken at regular intervals. An inventory serves several purposes: it

furnishes a statement of stock on hand for determining financial condition, it is a factor in the determination of the profit made since the last inventory, and it is a guide to management in sales efforts.

Substantiation of the insured's last inventory and the one preceding it is exceedingly important. Verification of the clerical accuracy of an inventory is the first step to be taken. This involves testing the extensions and footings, and noting whether the inventory sheets contain any references to the presence of consignment merchandise, customers' merchandise held for repair, merchandise sold but held pending periodic shipping instructions, merchandise at other locations, quantities in transit, or any other data that may be pertinent in later establishing the location or ownership of the goods shown in the inventory.

The next step is to verify the pricing. Inventories prepared in the usual course of a business may be subject to the application of varying accounting procedures in pricing, not all of which would necessarily result in establishing the actual value of the goods on hand at the time of the inventory. For example, inventories may properly be priced for accounting purposes either at actual cost or at market, whichever is lower. Cost may be determined by the specific identification method or on the basis of first-in, first-out; average cost; last-in, first-out; or any of several other varying yet generally accepted practices. The last-in, first-out method is likely to produce, after a loss, the greatest distortion. A company whose inventory is based on this method may show on its books an amount varying greatly from the actual value of the inventory, and it would ordinarily be necessary to reprice such an inventory on a basis of market value at the same date in order to establish a proper starting point for the book-statement method.¹

Some retail inventories are priced at a fixed percentage above invoice cost. In some cases the increment may be intended to cover the cost of getting the goods into the premises, *i.e.*, the cost of freight or trucking. In

¹ Market is generally considered to be current replacement cost either by purchase or by reproduction. Cost includes applicable expenditures and charges directly or indirectly incurred in bringing an article to its existing condition and location. It is not proper to include selling or administrative expenses in cost. For a further discussion of inventory pricing practices and terms, see Accounting Research Bulletin 29, issued in July, 1947, by the Committee on Accounting Procedure of the American Institute of Accountants.

other cases, the increment is arbitrary, sometimes being made to protect the business from too much price cutting by salesmen. Some inventories are priced to allow for deterioration or obsolescence on an item basis. Others at times provide for deterioration, obsolescence, or decline in market by a final deduction of an estimated amount.

If the pricing principles of the various inventories are not the same, they should be made the same, as otherwise no accurate computation of gross profit will be possible. Consistency is of prime importance in developing a reliable book statement.

In the case of a mercantile concern, inventory prices can be tested by reference to purchase invoices. As the preparation of a book statement requires that consistent allowance be made for such factors as freight charges, cash discounts, and various costs, it is essential that their influence on the inventory total be clearly established. Likewise, the inclusion of such costs as import duties, insurance expense, and warehouse and handling charges should also be clearly determined. The insured should be asked to explain his customary method of treating the several factors, and his explanation should be checked as closely as possible. If any appreciable quantity of merchandise is left in an identifiable condition, it should be examined for cost marks or price tags, and the costs or selling prices shown should be compared with those in the latest inventory.

Prices cannot always be easily verified when the insured is a manufacturer whose inventory consists of a mixture of raw materials, work in process, and finished goods. An accurate unit-cost record of goods manufactured is of material assistance, but in most small concerns no cost record worthy of the name is found. In the absence of one, a check may be made of the unit prices for goods in process by totaling the inventory prices of the separate finished parts of one complete unit and comparing the amount so obtained with the selling price of the unit. For example, a bed-manufacturing company had a large number of unassembled bed parts in its inventory. As no cost system was used, these parts had been priced in the inventories by guesswork for a number of years. It was found upon investigation that, by adding together the inventory prices of all the parts going into a complete bed, a total cost figure in excess of the selling price was disclosed, even without consideration of the labor cost of assembling and packing.

The cost-accounting procedure should be checked in an out-of-sight

loss as recommended in the case of an in-sight loss.¹ Tests should always be made to ascertain the accuracy of the allocation of manufacturing costs to the units produced. For instance, if the unit charges for direct labor are applied to the total quantities produced, the amount so applied for a given period should approximate the actual direct-labor payroll. The total production in units, when multiplied by the raw-material costs calculated for each, should approximately equal the actual costs of raw materials used during the period, as shown by the raw-material purchases, adjusted by the increase or decrease in raw-material inventories. Similarly, the amount of overhead expenses included in unit costs of the merchandise produced should approximate the actual overhead expenses incurred. However, the overhead expense, as used for inventory-pricing purposes, should not include any abnormal or irregular expenditures such as abnormal repairs or unusual moving expenses. The prices of finished goods may be subjected to the same general tests, while the prices for raw materials may be verified in the same manner as in the case of the non-manufacturing or mercantile concern.

In certain cases, inventory reserve accounts may appear on the books, directly affecting the valuation of the most recent regular inventory or the inventory taken after the loss to support the claim. These reserves should be subjected to considerable scrutiny by the examining adjuster or his accountant, and their purpose should be ascertained.

Certain inventory-pricing methods or policies of recent origin, or of specific industries, that produce inventory valuations not normally related to current actual cost merit special consideration. Examples are: last-in, first-out, already mentioned, the base-stock method, certain by-product costing procedures, methods by which all or a portion of factory overhead is excluded from inventory, and certain types of standard-cost methods. These special methods cannot be explained in detail, and the adjuster who encounters them should enlist the aid of a certified public accountant. Problems relative to the composition of factory expense as related to inventory pricing are discussed later.²

An illustration of why the verification of inventories is vital to establishing the correctness of the book statement is pertinent here. While the correct statement of all inventories is important as a gross-profit-rate

¹ See pp. 418-422.

² See pp. 433-434.

factor, the inventory used in the last closing of the books before the date of loss deserves special consideration because of the twofold effect that any inflation of this inventory will have in computing the value of the merchandise destroyed. For example, a concern based its claim for loss on a book statement set out as follows:

Computation of gross profit:

Sales, calendar year.....	\$200,000	100 %
Inventory, Jan. 1.....	\$ 30,000	
Purchases for year.....	<u>170,000</u>	
	\$200,000	
Less inventory, Dec. 31.....	<u>50,000</u>	
Cost of sales.....	\$150,000	<u>150,000</u> 75 %
Gross profit.....	\$ 50,000	25 %
Computation of stock on hand at date of loss:		
Inventory, Dec. 31.....	\$ 50,000	
Purchases, to date of fire.....	<u>100,000</u>	
	\$150,000	
Sales.....	\$120,000	
Less gross profit, 25 %.....	<u>30,000</u>	
Cost of sales.....	\$90,000	<u>90,000</u>
Stock on hand at date of fire.....	\$ 60,000	

Upon investigation, it was found that the inventory of Dec. 31 was overstated by \$10,000; therefore, the following corrected computations were made:

Computation of gross profit:

Sales, calendar year.....	\$200,000	100 %
Inventory, Jan. 1.....	\$ 30,000	
Purchases for year.....	<u>170,000</u>	
	\$200,000	
Less inventory, Dec. 31.....	<u>40,000</u>	
Cost of sales.....	\$160,000	<u>160,000</u> 80 %
Gross profit.....	\$ 40,000	20 %
Computation of stock on hand at date of loss:		
Inventory, Dec 31.....	\$ 40,000	
Purchases to date of fire.....	<u>100,000</u>	
	\$140,000	
Sales.....	\$120,000	
Less gross profit, 20 %.....	<u>24,000</u>	
Cost of sales.....	\$ 96,000	<u>96,000</u>
Stock on hand at date of fire.....	\$ 44,000	

Correction of the overstatement of the inventory reduced the percentage of gross profit to be used in computing the value of stock on hand. It also reduced the total cost of goods taken into the premises. The reduced percentage of gross profit reduced the loss by \$6,000, and the reduced amount of the inventory reduced it by an additional \$10,000.

Purchases. Under the general heading of purchases are included all cost components. In the case of a nonmanufacturing enterprise, these will generally be limited to merchandise, freight, and cartage. When manufacturing is carried on, there will be raw material, freight, cartage, labor, and manufacturing expenses.

The verification necessary to substantiate the various cost elements attaching to the goods on hand will depend to a large extent upon the adequacy and accuracy of the cost system, if there is one; upon the control and accuracy in handling receiving tickets, shipping tickets, debit memoranda, credit memoranda, and related documents; and upon the reliability of the accounting period "cutoffs" or closings.

Purchase entries should be supported by original invoices except in those businesses that do not receive invoices for all purchases. The original invoice and the freight bill ordinarily furnish satisfactory evidence of purchase and receipt of merchandise. If the purchase is subject to a cash discount, the terms are usually stated on the invoice. Country stores often do not receive invoices, as many purchases of local produce are made from farmers who give none.

Invoices for purchases of materials or supplies should be carefully checked, not only with purchase records but also with receiving books, express receipts, freight bills, drayage tickets, or similar records. Errors and attempts at fraud may be revealed by such checking.

The importance of examining freight bills in conjunction with purchase invoices was forcibly emphasized in an investigation of a retail lumberyard loss. The insured purchased most of his lumber in carload lots from distant mills. Five carload shipments were included in the claim, the invoices bearing dates earlier than the date of the loss. The invoice dates indicated that the lumber might easily have been received before the fire. No freight bills, however, could be located, and inquiry at the railroad offices established the fact that the cars carrying these shipments were all in transit at the time of the fire.

If possible, all large entries in the purchase record should be traced to

their origin, as some entries may not represent purchases. In one instance, it was found that a \$25,000 loan was credited to the purchase account in order to keep the liability off the balance sheet. The account was debited a year later when the loan was paid. A fire loss occurred that same year, following which a claim was prepared from the books without an adjustment of the purchase account to correct the spurious entries covering the loan. The claim was overstated, not only by the amount of \$25,000 falsely charged as a purchase, but by an additional amount due to an inflated gross profit computed on the false purchase reduction in the previous year.

In rare cases, purchase records have been heavily padded in anticipation of a fire by forging invoices and issuing checks to fictitious sellers, the checks being deposited by the maker in a private account kept under an assumed name. A case of this sort was unearthed by comparing the endorsements appearing on the checks with the signatures. Enough similarities were found to warrant investigation.

Some investigations should be pushed to the extreme of interviewing the sellers whose names appear on the invoices. Merchandise may have been returned without a record, or invoices may have been raised. When sellers allow their records to be investigated, the result will be conclusive so far as the buying of the goods is concerned, unless there is collusion, which is rare.

Frequently, if the insured is a member of an affiliated group of companies manufacturing identical products or parts of a particular product, intercompany charges for material may not necessarily be the cost applicable to the inventory for insurance purposes. For example, a furniture manufacturer may be "purchasing" its lumber from a subsidiary at a price determined for federal income-tax purposes, much higher than might prevail elsewhere. In fact, transactions with affiliated companies almost always require special scrutiny of the propriety of prices and charges. The absence of "arm's-length" dealings in such cases may be the occasion for fictitious, overstated, or understated transactions designed solely to serve management objectives. Such devices, however innocent otherwise, may seriously distort a loss computation.

The purchase record should also be checked against the inventory for "out-of-period" items. Such an item is presented when merchandise is received near the close of the fiscal year and included in the physical

inventory, but without entry of the invoice in the purchase account until after the books are closed. If such an inventory item is created by the last closing of the books before a fire loss, the claim will be affected not only by the inflation of the inventory, but also by the inflation of the gross profit due to the depression of the purchase figures before the inventory. Sometimes the reverse situation will be found, the invoice being entered before the books are closed, and the merchandise being omitted from the inventory because of its failure to arrive before the inventory date.

The examination of out-of-period items should be supplemented by tests for materials in the hands of vendors or finishers and merchandise covered by long-term contracts, and by inspection of credit or debit memoranda, and other similar pertinent data.

Manufacturing Expense. The accuracy of records covering the accepted components of manufacturing expense should also be established. In some instances labor accounts have been padded with extraneous items, such as extra compensation to officers in profitable years, salesmen's salaries, and even alimony payments to a former wife. In checking cost items that are paid at intervals to cover periods of time, such as insurance premiums paid in advance, it is important also to check any accruals that have been allocated in advance of payment. Similarly, past payments of such items should be checked to see that they are properly allocated to the periods in which they belong.

No unvarying method can be laid down for reviewing manufacturing expense. For practical purposes, it is perhaps sufficient to say that there should be included only those items having to do solely with the production of the finished products, and that care should be taken to exclude from consideration those having to do with their sale or with the strictly administrative affairs of the business.

Manufacturing expense is subject to differences in treatment in different businesses. It is, therefore, generally necessary for the adjuster or the accountant to familiarize himself with the insured's accounting methods and agree with him on what items are to be included. Consistency of treatment in both the period on which the rate of gross profit is computed, and the period of the book statement, is essential. For example, if a manufacturer considers his buying expense as part of the cost of his merchandise, it is necessary to consider buying expense as part of the cost of goods sold when computing gross profit. Likewise, a clear determination should

be made of the insured's policy of accounting for tools, small machine parts, or supplies having relatively short useful lives. If they are carried in the accounts of one period as inventories and in another as machinery and equipment, a decided distortion will appear in the ultimate determination of stock on hand.

In order to facilitate early month-end preparation of financial statements, many medium-sized and large companies are now applying manufacturing expenses to production on some predetermined basis such as a fixed per cent of direct-labor cost. Such a method, though useful for accounting purposes, will never achieve exact absorption of the actual manufacturing expense incurred; under many circumstances, it may be necessary, in order to restate these items correctly, to adjust the cost of production and the closing inventory for the over- or underabsorbed burden. The procedure necessary to reallocate items and restate cost of production and closing inventory may be more involved if the insured's cost records are maintained on a standard-cost basis. Standard costs, in addition to applying manufacturing expense on a predetermined basis, normally called the "standard overhead rate," also include the application of material and labor on a predetermined basis or standard rate. Whether the variances developed by standard costs should be respread, regardless of the reasonableness or attainability of the standards used, should be the subject of analysis.

Sales. In computing the theoretical amount of stock on hand under the book-statement method, the sales item is the third major factor. Generally, this factor is made up of both cash and credit sales, the original record of the former being in some cases the daily reading of the cash register. Credit sales are usually entered in a sales book, or on sales tickets or sales invoices. The total cash sales and the total credit sales are later posted to the sales account in the ledger. In many establishments, sales are recorded in a sales book that shows carbon copies of the sales invoices.

When sales records are kept accurately, it is easy to verify the sales account, but when they are not, the problem of determining the total sales may become complex, as there is considerable possibility of manipulation. Examination of individual sales invoices and comparison of them with shipping records will sometimes reveal discrepancies. Occasionally it is found that large quantities of merchandise have been shipped out

shortly before the loss, although copies of the sales invoices show negligible amounts. Again, shipments may be made without any sales invoices being prepared, the freight or cartage bill in such cases being the only evidence of the transaction; or customers may be billed for work in process in the plant though no shipments have been made.

During the investigation of a loss in a department store, a large freight bill purporting to cover the shipment of a single pair of shoes was discovered. Actually, 1,461 pairs had been shipped by a dishonest employee who was using understated sales invoices to conceal his thefts from the insured. Another case involved a retail lumber dealer who had sold several cars of lumber shortly before a loss. Delivery was made direct from the mill to the customer, an unusual procedure, as the dealer ordinarily made his sales from the yard in small quantities. The sales invoices had been made out, and the claim for loss was prepared according to the book showing. A check of the records revealed that accounts receivable were out of balance with the controlling general-ledger account by the exact amount of the large sale. The insured had charged the customer with the shipment but had made no corresponding credit to the sales account. This indicates the necessity that all ledgers be in balance, or that the cause of any discrepancy be made known.

In another instance it was found that the insured was billing certain customers on cash-sales tickets when, as a matter of fact, the transactions were on credit. No entry was made in connection with a sale at the time the merchandise was delivered, but when the account was collected, the cash-sales account was credited. Unpaid cash-sales tickets were kept as memoranda until paid. Numerous gaps in the serial numbers on the sales tickets brought about inquiries for the missing tickets and developed several thousand dollars of otherwise unrecorded sales.

In the search for suppressed sales, it is often necessary to analyze the general-ledger accounts, particularly accounts payable or loans payable. Analysis should also be made of cash transactions and reconciliations of bank statements. A case was discovered in which the insured had entered his sales to a large customer as a liability under the customer's name, in lieu of a credit to the sales account. In another case, the insured made no record whatever of sales to certain customers. When cash was received from these customers, it was deposited in the bank but not entered in the

records. This falsification of the book showing was promptly disclosed when a reconciliation of the cash records and the bank statements was attempted. In still another case, a manufacturer credited sales to a loans-payable account, indicating that the proceeds of the sales were loans from himself to the business. In each of these cases, the failure to deduct the suppressed sales would have resulted in a substantial overpayment of loss. In small businesses, such as grocery stores or drugstores, the owner is always tempted to pocket some of the cash receipts without recording them, thereby saving both sales taxes and income taxes.

The sales record and the sales-return record, following procedures similar to those discussed under the purchase record, should also be checked against the inventory for out-of-period items.

Frequently, computation of accounts-receivable ratios or turnover ratios, and comparison with those of previous periods, will indicate the reasonableness or unreasonableness of the total sales figure. Monthly statements or internal-management reports may be requested for further verification of book figures; frequently, the monthly reports will indicate unusual trends or activity that should be critically examined.

While it is admittedly difficult to detect manipulation of sales, the records will give in most cases some indication of irregularities when they exist. Any such indication must be noted and run down to a point at which the reason for it and the type and extent of falsification will become clear.

Gross-profit Percentage. The percentage or ratio of gross profit, the fourth major factor in the book statement, is frequently the one uncertainty. Inventories, purchases, and sales can in many instances be reduced to certainty by carefully checking the records, but the ratio of gross profit that should be used to reduce sales to a basis of cost cannot always be determined with precision. Consequently, when the other factors have been established, this one, in many cases, becomes a subject for intelligent judgment. In properly kept sets of books, the ratio of gross profit for any given period between physical inventory dates can be readily ascertained. But when a loss has occurred some months after the date of the last inventory, and after substantial purchases and sales have changed the quantity of stock on hand, the question arises whether the sales made after the inventory produced the same rate of gross profit as those made

before. Unless the accounting system shows the cost as well as the selling price of each article sold, this question cannot be definitely answered.

The operating history of the fiscal year immediately preceding the loss is generally used as a basis for computing the ratio of gross profit, on the theory that the year is a guide to conditions existing at the time of the loss. Since this is not always true, it is highly important that adequate consideration be given to factors operating to change the ratio. Usually the ratio of gross profit does not fluctuate greatly from year to year. In periods of changing general economic conditions, however, or when internal or external forces bear upon the normal operation of a given industry or individual business, the ratio of gross profit can change materially in a short time.

Neither party to the adjustment should offer to accept the ratio of the previous year or period until after careful consideration of the factors that might operate to increase or decrease the ratio of gross profit made on sales following the last inventory, and thus increase or decrease the final showing of stock on hand. It often develops that the ratio experienced for the fiscal period is so distorted as to be unfit for use as a factor in determining the theoretical amount of stock on hand. Equally often, it develops that changed conditions from the end of that period to the date of the loss make an otherwise indicative ratio of previous periods wholly inapplicable.

Variations in the ratio may arise from many causes, only a few of which need be mentioned:

1. Changes in purchase prices, freight, or cash discounts
2. Changes in selling prices, sales discounts, or distribution methods
3. Changes in costs through strikes, changes in production efficiency, revised wage rates, or new plant methods
4. Special sales promotions or price wars
5. The period of the year represented by the sales, if one season normally shows higher profits than another
6. Introduction or elimination of certain lines of goods
7. Changes in normal lines of goods owing to scientific improvements or to expansion of the business
8. Prosperity or dullness of conditions in the period covered by the sales as contrasted with the period before the last inventory

9. Varying methods of pricing inventories

10. Changes in "mixture" of goods sold, when at varying rates of gross profit

The first four of these causes need no explanation. The fifth may be explained by calling attention to the method prevailing in some agricultural sections where staples, sold at a small profit, constitute the bulk of the business during the period of planting and cultivating the crops, and where luxury items bringing higher profits are sold after harvest. The sixth includes the opening up, or closing out, of lines of merchandise on which the profit is greatly above or below the average of the business. The seventh is a situation common to business evolution, as when a manufacturer of radios changes to television, or a producer of machinery offers automatic operating features that develop a new and profitable demand. The eighth involves the rise or fall in prices that accompanies unusual times, good or bad, caused by general or local influences, such as the effect of a national political campaign on a manufacturer of campaign buttons.

The ninth and tenth warrant some discussion. Inventories are not always taken on the same basis from year to year. Instead of inventorying goods at the prices paid for them, some merchants inventory their stock according to what they deem the goods to be worth at the time of inventory or at arbitrary prices influenced by income-tax considerations. The original invoice price of each article is thus lost unless there is sufficient detail on the inventory to make it possible to trace the invoice. In the case of such inventories, the ratio of gross profit becomes an uncertain factor and, if improperly calculated or applied, may work injustice either to the insured or to the insurer. If a stock is inventoried on a price basis different from that appearing on the purchase record and if the difference is not accounted for by obsolescence, the ratio of gross profit will be in error. This error becomes a factor to increase or decrease the amount shown by the loss calculation according to the increase or decrease of the price basis used in the last inventory.

To illustrate: Assume that a merchant whose stock on Jan. 1, 1950, consisted of 400 units, at an invoice price of \$25 a unit, had arbitrarily entered them on his inventory at a figure of \$20, although the market value was unchanged. If this should pass unnoticed, the rate of gross profit would be as follows:

Inventory, Jan. 1, 1949, 501 units at \$25.....	\$12,525
Purchases, 1949.....	<u>37,500</u>
	\$50,025
Inventory, Jan. 1, 1950, 400 units at \$20.	<u>8,000</u>
Cost of goods sold.	\$42,025
Sales, 1949.....	\$50,031
Cost of sales.	<u>42,025</u>
Gross profit.	\$ 8,006 (16% of sales)

Assuming the market to remain unchanged until the time of the fire and the merchant to continue his practice of marking up 25 per cent of invoice price, a book statement using the foregoing gross-profit percentage gives a result materially at variance with the true state of affairs. Comparing a statement by count with a statement based on 16 per cent gross profit, and using in each the same figures for purchases and sales:

ACTUAL COUNT	
Inventory, Jan. 1, 1950, 400 units at \$25.....	\$10,000
Purchases to date of fire, 1,875 units at \$25.	<u>46,875</u>
Total, 2,275 units.....	\$56,875
Sales, 1,750 units at \$31.25..	\$54,687
Cost of sales, 1,750 units at \$25.	<u>43,750</u>
Burned, 525 units at \$25.. . . .	\$13,125
SHOWING BASED ON PERCENTAGE OF GROSS PROFIT	
Inventory, Jan. 1, 1950.	\$ 8,000
Purchases to date of fire.... .	<u>46,875</u>
	\$54,875
Less computed cost of goods sold:	
Net sales.	\$54,687
Less 16 per cent gross profit.....	<u>8,750</u>
Computed stock on hand at date of fire..	\$ 8,938
Actual loss count.....	\$13,125
Loss based on percentage of gross profit.	<u>8,938</u>
Difference.....	\$ 4,187

Thus, it is important that inventory pricing be consistent at all times or that corrections be made for all variations not justified by normal obsolescence or price trends.

If the ratio of gross profit used in preparing the statement of stock on hand has been determined from transactions between inventories that

were made without allowance for obsolescence or other depreciation, the statement will show the theoretical cost of the stock. If, however, accurate allowances for depreciation have been made in each inventory, the ratio of gross profit will produce a statement showing the theoretical depreciated cost of the stock. But if the values used in one inventory have been reduced to take depreciation into account and in the other have not, the ratio of gross profit will produce a statement showing a larger or smaller theoretical amount than should be employed. If only the first inventory is depreciated, a higher gross-profit ratio is shown; if only the second, a lower.

A business sometimes makes an unusually high gross profit in a given year because of a single highly profitable transaction. For example, a wholesale grocery company suffered a fire loss and presented a claim based on a gross profit of 12.13 per cent, which was the operating experience of the year preceding the loss. It was found, however, that for many years the percentage of gross profit had been about 6 per cent and that the increase for the year before the loss had been caused almost entirely by transactions in the sugar market. Since no such transactions had been made during the year of the fire, the insured's claim was adjusted on the basis of a 6 per cent gross profit, which materially reduced the amount of the loss.

When a business is losing ground and its sales are decreasing, it is usually found that the ratio of gross profit shows a yearly decrease. In such cases, the rate of decrease should be ascertained, and the ratio of gross profit adjusted according to the trend.

Any marked change in the character or composition of sales produces a corresponding fluctuation in the gross-profit ratio. An excellent example of the effect of such a change was noted in the case of a concern that did both wholesale and retail business. During one year, the sales were divided as follows:

	<i>Retail</i>	<i>Wholesale</i>	<i>Total</i>
Sales	\$300,000	\$100,000	\$400,000
Cost of goods sold	210,000	85,000	295,000
Gross profit	\$ 90,000	\$ 15,000	\$105,000
Percentage of gross profit	30 %	15 %	26.3 %

During the following year a fire occurred. Sales to the date of the fire had been \$200,000, and a claim was filed using the average gross profit of 26.3 per cent or \$52,600. An analysis of the sales showed that the ratio of wholesale to retail sales had materially changed and that sales in the two classes were equal. The loss was recomputed using the separate ratios of 30 and 15 per cent as follows:

	<i>Retail</i>	<i>Wholesale</i>	<i>Total</i>
Sales	\$100,000	\$100,000	\$200,000
Gross profit	30,000(30%)	15,000(15%)	45,000(22 5%)
Cost of goods sold	\$ 70,000	\$ 85,000	\$155,000

Thus the greater proportion of low-profit wholesale volume depressed the general gross-profit ratio from 26.3 to 22.5 per cent, and the original loss claim was, therefore, overstated by \$7,600. A similar result is found when a concern sells a number of products at varying rates of gross profit, and the proportion that each bears to the total sales varies from year to year. In other words, attention must be given to the composition of sales in different fiscal periods and at different times of a single fiscal period, because of its possible effect on the rate of gross profit.

Because of the foregoing situations, which are not uncommon, and in spite of the fact that the experience of prior periods is always of value, it is important to make some sort of *direct* check on the actual gross profit, if possible. This may be done by analyzing the cost of the sales of the period in which the loss occurs. The method may be illustrated as follows:

<i>Sales invoice No.</i>	<i>Selling price</i>	<i>Cost</i>	<i>Gross profit</i>
1	\$100	\$ 75	\$ 25
2	175	110	65
3	228	202	26
4	145	105	40
	\$648	\$492	\$156

The gross profit is $15\frac{6}{648}$, or 24.1 per cent. Should this figure agree substantially with the ratio experienced during the prior year, it is reason-

able to assume that no radical change has occurred in the relation of selling prices to material prices, labor costs, or other items, and that the prior year's ratio is being repeated.

The number of sales invoices to be analyzed depends entirely upon the individual case. When sales are individually large and few in number, all sales invoices should be analyzed. When, however, their number runs into the thousands, complete analysis will be impracticable. In this event it is best to analyze *all* the sales for a certain period: 2 weeks, 1 month, or 2 months. Care should be exercised to cover a representative group of sales, otherwise the test will be ineffective. If a concern sells five different products in about equal amounts, it is insufficient to test a group of sales of only two or three of the products.

For manufacturers, the cost prices may be obtained from the cost records, if accurately maintained; for nonmanufacturing businesses, from purchase invoices on file.

Forms of book statement, based on applying a gross-profit percentage to sales and generally used in computing merchandise value at date of loss, are shown in Exhibits A and B for manufacturing losses and in Exhibits C and D for mercantile losses.

EXHIBIT A
COMPUTATION OF GROSS PROFIT AND COST OF GOODS SOLD
THE SHADE MANUFACTURING COMPANY
Year ended December 31, 1949

Gross sales.....			\$853,835 17
Less sales discounts and allowances			<u>12,694.26</u>
Net sales.....			\$841,140.91
Cost of goods sold:			
Inventory, Jan. 1, 1949.....		\$ 47,950.04	
Purchases:			
Mirrors..	\$ 7,677.10		
Shades..	184,571.48		
Lamps.	156,210.24		
Wrought iron.....	74,848.51	\$423,307 33	
Less discounts.....		<u>12,292 14</u>	411,015.19
Labor:			
Shades.		\$ 94,372.06	
Lamps..		93,301.27	
Wrought iron..		35,407.36	
Manufacturing expenses:			
Depreciation of machinery.	4,500 88		
Rent.....	22,427.16		
Machinery maintenance.	3,451 09		
Light, heat, and power..	5,562 86		
Insurance.	7,273.82		
Freight, express, and cartage....	6,965.30		
General expense.	1,002.25		
Designing.	7,284 26	<u>281,548.31</u>	
		<u>\$740,513.54</u>	
Less inventory, Dec. 31, 1949.		<u>101,934.48</u>	638,579.06
Gross profit (24.08 % of net sales).....			\$202,561.85

EXHIBIT B
COMPUTATION OF MERCHANDISE VALUE AT DATE OF LOSS
THE SHADE MANUFACTURING COMPANY
Year ended March 9, 1950

Inventory, Dec. 31, 1949..		\$101,934 48	
Purchases:			
Mirrors.	\$ 507 59		
Shades.	36,063.38		
Lamps.	27,161.08		
Wrought iron.	<u>23,422 00</u>	\$ 87,154 05	
Less discounts on purchases.	<u>1,702 84</u>		85,451.21
Labor:			
Shades.	\$ 16,138 13		
Lamps	15,955 55		
Wrought iron.	<u>6,055 23</u>		38,148 91
Manufacturing expenses:			
Depreciation of machinery.	\$ 923.58		
Rent	3,927.67		
Machinery maintenance.	349.35		
Light, heat, and power.	985 96		
Insurance.	438 38		
Freight, express, and cartage.	1,874.93		
General expense.	222.93		
Designing.	<u>712.43</u>	9,435.23	\$234,969 83
Deduct computed cost of goods sold:			
Sales	\$127,798 53		
Less sales discounts and allowances.	<u>2,660 05</u>	\$125,138 48	
Deduct computed gross profit (24.08 per cent of net sales) (See Exhibit A)		<u>30,133 35</u>	95,005.13
Total computed merchandise value.			\$139,964.70
Deduct:			
Inventory at 1516 Montpelier Street not touched by fire.		<u>67,497.43</u>	
Total computed merchandise value at 442 N. 8th Avenue			\$ 72,467 27
Add:			
Computed inventory of shipping supplies.		<u>5,150.90</u>	
Total computed merchandise value at 442 N. 8th Avenue Mar. 9, 1950.			\$ 77,618.17
Deduct:			
Agreed value of salvage.		<u>9,423.05</u>	
Merchandise value destroyed.			\$ 68,195.12

EXHIBIT C
COMPUTATION OF GROSS PROFIT AND COST OF GOODS SOLD
THE JOBBERS MERCHANDISE COMPANY
Year ended December 31, 1949

Gross sales			\$464,396.93
Less:			
Discounts on sales	\$ 9,078 07		
Allowances	147 37		
Out-freight and drayage	4,710 17	13,935.61	
Net sales			\$450,461.32
Cost of goods sold:			
Inventory, Jan. 1, 1949	\$ 29,463.20		
Merchandise purchased	\$492,891 60		
Less discounts on purchases	5,815 94	487,075 66	
In-freight and drayage	4,813.80		
	\$521,352 66		
Inventory, Dec. 31, 1949	119,031 40	402,321.26	
Gross profit (10.69 per cent of net sales)			\$ 48,140.06

EXHIBIT D
COMPUTATION OF MERCHANDISE VALUE AT DATE OF LOSS
THE JOBBERS MERCHANDISE COMPANY
Year ended March 31, 1950

Merchandise inventory, Dec. 31, 1949	\$119,031 40		
Merchandise purchased	\$ 48,376 17		
Less discounts on purchases	737 36		
	\$ 47,638 81		
In-freight and drayage	429 37	48,068 18	\$167,099 58
Deduct computed cost of goods sold:			
Gross sales	\$ 56,511 45		
Less:			
Discounts on sales	\$ 1,133.24		
Allowances	71.99		
Out-freight and drayage	694.33	1,899 56	
	\$ 54,611.89		
Less computed gross profit (10.69 per cent of net sales) (See Exhibit C)	5,838 01	48,773.88	
			\$118,325.70
Deduct:			
Merchandise in transit and out on consignment		\$ 7,519.50	
Total computed merchandise value on hand, Mar. 13, 1950			\$110,806.20
Deduct:			
Agreed value of salvage		32,500.00	
Merchandise value destroyed		\$ 78,306.20	

Determination of Stock on Hand by Quantity Analyses. From comments on the uncertainties of the book statement, based on gross profit, it is evident that radical changes in a business may make the book-statement method inequitable as a basis for establishing the value of stock on hand at the time of loss. For example, the profits of a young and undeveloped business that is growing rapidly during its first year, or during an experimental period, may not be representative of conditions during a subsequent period.

In such instances, and particularly if the business is small, the merchandise on hand can sometimes be determined with a greater degree of accuracy by the *unit method*, also known as *quantity analysis*. If the insured maintains a perpetual inventory, a stock book, or a stock-control record, it should be examined. If he does not, quantities can sometimes be established from the last inventory, the purchase invoices, and the record of sales.

Where the perpetual inventory is controlled by, or balanced with, the general books and is also substantiated by periodic physical inventories, it is a proper basis for loss computation.

A perpetual-inventory record is a running account of stock on hand, classified according to units, in which are recorded quantities purchased and sold. When the unit of value is large, as in the case of machinery or precious stones, the perpetual-inventory method is generally an effective means of stock control. But when an attempt is made to adapt this kind of record to a business having rapid turnover, and there are large numbers of units of small individual value, inaccuracy and unreliability may be anticipated. Although many of the perpetual-inventory records in use are manifestly ill adapted to the business involved, and many more are carelessly or inaccurately kept, a claim is almost invariably made by the insured for the open or unsold items in this record without correction or revision. In these cases, purchases and sales should be carefully checked to the record, at least on a test basis, before it is accepted as correct. As a

countercheck, a regular book statement should be made, as it may verify or disprove the showing of the perpetual inventory. A well-kept perpetual inventory or stock record may often be put to valuable use in ascertaining the rate of turnover, which will indicate the salability of the merchandise on hand. For example, the inclusion of a quantity of obsolete machine parts may be revealed by the date of the last entries showing acquisition of the parts, and by the absence of any recent credits for withdrawals for assembly purposes.

An accurate perpetual-inventory record may also serve to disclose errors in the general books. It is, therefore, desirable to reconcile the two whenever possible. In one instance, a perpetual-inventory record reflected a value at the time of the loss that was \$15,000 in excess of the amount shown by a book statement. As a few minor errors were noted in the perpetual-inventory record, it was at first believed that the record was unreliable. An attempt was then made to reconcile the perpetual-inventory record with the general books, as of the date of the last physical inventory. A large error was disclosed, which had resulted in a considerable understatement of the physical inventory. The correction of this error affected the rate of gross profit and the result of the book statement to such an extent that the value as shown by the perpetual-inventory record at the time of the fire was substantiated.

A perpetual-inventory record of stock is useful for loss purposes only to the extent that it is accurate and reliable. Some indication of the reliability of the record can usually be observed from the frequency of correcting or adjusting entries. Even the best of well-kept records would normally require correction from time to time. The lack of such entries might be an indication that errors are permitted to accumulate without correction.

It is becoming a rather common practice to rely upon perpetual-inventory records for control of stock, even to the exclusion of annual physical-inventory counts. Under this procedure, the unit records for the stock on hand are posted daily for acquisitions and withdrawals, and the balances are maintained currently. At periodic intervals, test counts are made of the actual quantities of the stock for a section of the perpetual-inventory records, and these counts are compared with the book balances. This is usually done on a rotating basis so that the entire stock is checked at least once a year. At the close of the year, the inventory quantities are listed from the balances shown by the unit records, and no special count

is made at that time. An adjuster who encounters such a situation should make a careful examination of the procedure of test counting, especially to see that it accomplishes the purpose intended, that the stock is carefully counted at least once a year, and that the records are adjusted for any differences shown by the counts. If a company has a continuing experience of discrepancies disclosed by actual counts, the adjuster should not place too much reliance upon these records.

In a large number of cases, the perpetual-inventory record is merely a memorandum of doubtful utility, as in the case of a clothing company that recently made claim for a loss of \$29,000 on the basis of its perpetual-inventory record. It was found that this record had been kept in a slipshod manner and, when a comparison was made between the book balances and the actual count at the time of the last physical inventory, the following discrepancies were revealed:

	<i>Physical inventory</i>	<i>Stock record</i>	<i>Difference</i>
Woolens.....	\$19,687.46	\$29,570 09	\$ 9,882.63
Finished goods, overcoats.....	2,066.50	5,926.75	3,860 25
Finished goods, suits.....	4,950 00	6,911 09	1,961 09
Totals.....	\$26,703.96	\$42,407.93	\$15,703 97

Upon examination, errors of the following nature were disclosed:

1. Purchases were entered in duplicate, and often quantities were not as shown on purchase invoices.
2. Sales were not always recorded in the perpetual-inventory record.
3. Cost prices were incorrectly stated.
4. Items were always carried at original cost, although some were several years old and were almost without value.

These errors were sufficient to eliminate this record from further consideration, and a computation by the gross-profit (or book-statement) method reduced the loss from \$29,000 to slightly over \$9,000.

Occasionally, it is found that no general books worthy of the name have ever been maintained. Such was the case in a recent claim for over \$100,000. The insured was engaged in the sale of articles whose unit values were sufficiently large to warrant his using the perpetual-inventory method. He kept no general books, had no purchase or sales invoices,

had lost or misplaced most of his bank statements, and had never filed a federal income-tax return. His stock record was what might be termed a rudimentary perpetual-inventory or stock book. In it he listed his purchases individually and, when an article was sold, supposedly crossed it from the list. His claim was based upon the open items in this book, over 1,000 in number. An analysis of transactions brought out the fact that he had apparently paid for purchases of at least \$60,000 in excess of his total available cash. No additional funds had been invested in the business and, therefore, either sales were understated or purchases overstated. An inspection of the scene of the loss made it doubtful that 1,000 articles could have been on hand. The insured sold about one-third locally and two-thirds by mail order. A large number of express shipping receipts were accidentally located and, while no single receipt could be identified with the shipment of a particular unit, the number of receipts could be compared with the number of sales month by month. For some months it was found that the shipping receipts were in excess of the recorded sales, and the test as a whole indicated that mail-order sales were understated by at least one-third.

While no purchase invoices were available at the insured's premises, copies were obtained direct from the manufacturers and, by comparison with the so-called stock book, it was discovered that numerous invoices were duplicated. These disclosures sufficed to eliminate the stock book as a basis for loss computation.

Reconstructed Unit Records. Many times it is possible, in the absence of perpetual-inventory records, to reconstruct unit records for the goods on hand by analyzing and tabulating the quantities represented in the last physical inventory and in the subsequent purchases and sales to the date of the loss. The procedure is usually the simple one of setting up work sheets in the following steps:

1. Segregate the last physical inventory into units of each product.
2. Add thereto the respective quantities purchased or manufactured during the period under review, as determined by an analysis of purchase invoices or production records.
3. Deduct the net quantities of each product sold or shipped, as revealed by an analysis of shipping records or sales invoices.

The result of such a compilation is in reality the construction of a perpetual-inventory record in the form of totals by products on hand at

the date of the fire, based upon the recorded transactions of the insured during the period subsequent to the last physical inventory. This method is especially practical in the case of a jobber or manufacturer dealing in a few products. It may also be applied to a small business where complete general records are not available, such as that of a dealer in raw hides or in automobile tires.

As a case in point: While a fire in a paper warehouse was under examination, it was found that scarcely any evidence remained of a large quantity of wrapping paper in rolls which the insured claimed were on hand at the time of the loss. Rolls of wrapping paper are not easily obliterated, and for that reason the purchases and sales of wrapping paper for several years were analyzed in detail. This analysis resulted in definite proof that the amount of wrapping paper on hand had been overstated 500 per cent by the insured.

When fraud is suspected and particularly when a loss occurs shortly after the close of the fiscal year, every possible method of checking inventory quantities should be employed. A few illustrations will reveal the extent to which it is sometimes necessary to go. A large jobbing house suffered a loss on the first day of the year. The insured stated that the physical inventory had been taken on the afternoon of Dec. 31. The quantities stated in this inventory seemed inordinately large but, owing to the fact that some of the records had been destroyed, lost, or concealed, a check by complete analysis of purchases and sales was impossible. It was noted, however, that on many branch-store requisitions certain items were marked "Back Order" by the stock clerks, indicating that these items were out of stock at the time. Subsequent purchases and shipments of these were traced, and in many instances it was found that the insured could not possibly have had on hand the amount stated on his inventory. The correspondence files showed that the insured had sent the branch offices weekly bulletins that often listed the current stock shortages. When these shortages were investigated, numerous other discrepancies in inventory quantities were uncovered. In this manner, the purported physical inventory was sufficiently discredited to be eliminated from consideration in determining the amount of loss.

In another case, the insured attempted to defraud the insurance company by arbitrarily raising the quantities of various items on the inventory sheets. He made the mistake, however, of using an indelible pencil when

increasing them, while the original figures had been made with an ordinary lead pencil.

When the procedure of quantity reconstruction is undertaken, it is important that the adjuster be satisfied that the beginning quantities shown in the last physical inventory are accurate. Purported physical inventory listings should not be accepted without some verification. Testing of computations and totals of the last physical inventory is always important because it may establish that the quantities have been deliberately raised. The submitted inventory should be scanned for clerical correctness, and its total should be compared with the general-ledger account and the figure appearing on the insured's federal income-tax return for the same date.

Another excellent test of the correctness of a submitted physical inventory for a prior date is computing the rates of turnover for several years and comparing them. Turnover rates are computed by dividing the cost of a year's sales by the average inventory. A comparison of the rates of turnover will sometimes show that the last inventory is suspiciously large. For example, the records of an insured showed the following for successive years:

	1947	1948	1949
Cost of goods sold	\$611,000	\$500,000	\$377,000
Average inventory	117,000	164,000	258,000
Rate of turnover	5.22	3.05	1 46

Subsequent investigation proved that the 1949 inventory was padded.

Inventory padding may be continuous for a period of years, therefore attention may well be directed to prior stock-taking data. Padding has been found in more than one case, not necessarily "in preparation for a fire," but for the purpose of misrepresenting financial condition to bankers, stockholders, or others.

Quantity analysis is highly desirable in all instances where the work involved is within reasonable limits. Whenever physical inventories are suspected of being fraudulent, a quantity analysis in accordance with the foregoing outline offers a workable method by which they may often be proved fictitious. In such a compilation, it may be necessary to consider

only a few of the principal products making up the major value of the purported physical inventory.

Retail-inventory Method. Department stores have almost all adopted the retail-inventory method of merchandise accounting.

Stock control in an establishment of this nature, with its rapid turnover, its numerous selling items, and its many "sales" and other merchandising schemes, is a difficult problem. One of the essentials of the retail-inventory method, as a means of solving this problem, is a high degree of accuracy in record keeping. The value of stock on hand determined by this method, when it is properly applied, is almost as accurate as that determined by means of a physical inventory with correct unit prices for the units counted, weighed, or measured.

The following brief summary shows the steps involved in the application of this method:

	<i>Cost</i>	<i>Selling</i>	<i>Markup</i>
Inventory, beginning of period	\$1,000.00	\$1,500.00	\$ 500.00
Purchases during period (net)	2,150 00	3,000 00	850 00
Additional markups . . . . .	.. ....	100 00	100 00
	\$3,150.00	\$4,600 00	\$1,450.00
Per cent of markup $(1,450/4,600) = 31.522\%$			
Sales during period (net)	?	2,675 00	?
Markdowns for "sales," etc.	?	250 00	?
	\$2,002 98	\$2,925 00	\$ 922 02
Inventory, end of period	\$1,147.02	\$1,675.00	\$ 527.98

The following points are to be emphasized: (1) This method is an almost perfect example of the book statement. (2) The decline in salability is automatically accounted for by the markdowns taken.

The method requires that all inventories and purchases be recorded at both the cost and the selling price, that additional markups be considered as being purchases at 100 per cent profit on selling price, and that markdowns be treated as sales. At the end of any given period, the resulting percentage relationship between the cost column and the selling-value column is the percentage relationship between the sales made during the period and the cost of these sales.

However, when the retail-inventory method is not correctly applied, the showing of stock on hand will not be substantiated by physical inventory. A large department store recently suffered a loss of considerable amount. Upon investigation it was found that markdowns were habitually considered as deductions from the accumulated selling total instead of being considered as sales. To illustrate the effect of this erroneous procedure, the foregoing example has been recomputed according to the method employed by the insured:

	<i>Cost</i>	<i>Selling</i>	<i>Markup</i>
Inventory, beginning of period	\$1,000 00	\$1,500.00	\$ 500 00
Purchases during period (net)	2,150 00	3,000 00	850 00
Additional markups . . . . .	..	100 00	100 00
	\$3,150 00	\$4,600 00	\$1,450 00
Less markdowns for "sales," etc. . . . .	.....	250 00	250 00
	\$3,150.00	\$4,350.00	\$1,200 00
Per cent of markup $(1,200/4,350) = 27.586\%$			
Sales	1,937 07	2,675 00	737 93
Inventory, end of period	\$1,212 93	\$1,675.00	\$ 462 07

The stock on hand (at cost) computed by this method amounts to \$1,212.93, as compared with an actual \$1,147.02. In this particular loss the inventories were very large, and the resultant overstatement of the claim was not inconsiderable.

Location and Ownership. Not all stock on hand determined by an accounting computation is necessarily on the destroyed or damaged premises. Nor is all merchandise on hand necessarily owned by the insured. After an agreement has been reached as to the approximate amount of the total value of stock in question, whether by book statement, by perpetual-inventory record, or by unit reconstruction, it is important to verify the *location and ownership* of the merchandise on the date of the fire.

A frequent source of information for such verification is bank loans outstanding. An examination of the related documents may well establish, in addition to assisting in valuation, the location and ownership of pledged merchandise. Examination of other types of secured indebtedness outstanding at the fire date, such as those of financing, factoring, or warehousing arrangements, may provide similar data.

Quantities of merchandise at a public warehouse should be confirmed and compared with book records. Should any doubt exist as to the independence of the warehouse, physical examination of the off-location merchandise should be made as soon after the loss as possible. The insured may not always disclose the storing of merchandise at warehouses away from the loss location, whether publicly or privately owned; however, analysis of book accounts may disclose the existence of such storage centers. An examination of the insured's property records may reveal ownership of warehouses, stores, or other buildings used for storage, and they should be physically examined; likewise, if no detailed property records are available, perusal of real-estate or personal-property tax bills may produce the desired information. The use of public warehouses would also be disclosed by analysis of supporting documents of the rent, storage, or warehouse expense accounts.

If the insured maintains branch offices or is an affiliate of a group of companies, analysis of branch or intercompany accounts may disclose data as to stored merchandise or merchandise on loan. Damaged or destroyed merchandise on the insured's premises may have belonged to branches or other affiliated interests.

The adjuster should seek accounts or subsidiary records that may disclose consigned merchandise, whether in the possession of the insured or others, and the specific location of such merchandise on the date of the loss. Consignors sometimes carry their own insurance. Examination of customers' accounts and correspondence or prior physical-inventory records might divulge the practice of dealing in consigned merchandise. Careful scrutiny of memo sales invoices or purchase invoices may expose not only consignment practices but also the practice of holding merchandise on approval or on bailment. If the insured is engaged in foreign trade, information should be sought on the existence of consigned merchandise in foreign countries.

The insured's products may be such as to require finishing at other premises. If the finishing operation is a constant one, and the separate inventory records or accounts are not readily available to the adjuster, examination of freight and drayage invoices may reveal similar information. An example of this situation was presented by the case of a small manufacturer whose purchase invoices and freight bills were all checked and found in order, indicating that the merchandise had been purchased

and received before the loss. There was, however, a shortage of cartage and drayage bills, which warranted the conclusion that all of the merchandise had not been delivered at the insured's premises. Further investigation disclosed that he had much of his work done in other shops and that these shops had on hand at the time of the loss large stocks of his merchandise. This development reduced the claim by nearly one-half.

Shipments made to the insured or by the insured under long-term contracts usually raise the question of whether the recording of shipments through billing or invoicing is coincidental with the movement of the goods. Shipments may be received or delivered daily or weekly, affecting immediately the inventory quantities, though billing or invoicing of such merchandise may be done monthly. If the adjuster is not informed of such arrangements, he may learn of them from an examination of purchase orders or sales orders. An illustration of such practices is that of billing goods to a customer and holding them for shipping instructions under what is sometimes called "mark, charge, and hold," a procedure not unusual in textile companies.

Comments. While the principles that determine the value of stock on hand have been illustrated briefly in the foregoing sections, varying applications of these principles may have to be made to problems presenting details that have not been discussed. Any set of books may contain unusual entries that must be carefully considered before being used in preparing the loss statement. The principal difficulties that face the adjuster and his accountant are those presented by the simple question: Do the entries on the books truly represent what has happened in the history of the business, and do they truly represent *all* that has happened? The problem of analyzing a complicated set of reliable records is usually much easier than the problem of substantiating or disproving the authenticity or completeness of records concerning which suspicion has been aroused.

Although any one of the procedures outlined for the determination of stock on hand may be adequate in a specific instance, it is desirable to use, wherever possible, more than one of the methods suggested. The result shown by one procedure may often be either substantiated or disproved by a detailed comparison with the figures resulting from the application of another method.

Use of Accountants. Books and records are the domain of the account-

ant; accordingly, the adjuster who finds himself involved in a complicated loss that is to be established through accounting data should be cognizant of his own limitations. Accounting has seen great change and development in the past 10 or 15 years. As a result of pressures from the changing business conditions of a highly competitive economy, record keeping is now a complicated art of apportionment, allocation, and distribution of the money results of business transactions, in all of which varying weight is given to established accounting conventions, individual judgment, and generally recognized principles and standards. Simple chronological records of cash transactions have evolved into cost-and-profit determinations by plants, by departments, by products, and by units of product. Cost accounting has grown from the earliest elementary job-cost computations into such techniques as standard costs, process costs, and distribution costs. Specialized systems have been developed for specialized enterprises.

There is a great difference between verifying the book statement of a corner grocery and of a large chain store, and between a similar statement of a small gray-iron foundry and a manufacturer of airplanes. Whenever the accounting involved is beyond the skill and experience of the adjuster, he should secure the assistance of a certified public accountant. The adjuster and accountant, working together, can approach the various problems in a manner calculated to bring into clear focus all the features of the operations of the insured that have a bearing upon the probable amount of loss. Through this approach, the problem can readily be analyzed so as to facilitate an expeditious and equitable adjustment.

Profits and Commissions

In the insurance scheme, *profits* may be defined as the difference between the replacement cost of merchandise on hand at time of loss and its selling price; *commissions*, as the amount that the person who is to sell merchandise for another would earn by selling it.

Profits and commissions as subjects of insurance are covered by a variety of forms. Since their language changes frequently, it is not advisable to set out here any particular form or forms. In general, only the profits or commissions to be earned from selling the merchandise on the premises at the time of loss are covered.

Effects of Perils Insured Against. The destruction of merchandise ends the possibility of selling it. Damage to it may make it impossible for the insured to sell it, or may make it necessary to do so at a reduced price.

Profits Insurance. The intent of profits insurance, when written in connection with insurance on the merchandise itself, is to make it possible for the insured to collect in case of total loss the same amount of money that he would have received had he sold the merchandise in sound condition, less any expense he could avoid or discontinue because of its destruction.

Profits insurance has been, and still is, the subject of much controversy. The forms used in writing it have been changed from time to time and will probably continue to be changed. In many cases underwriters do not agree upon what is covered, and adjusters do not agree how losses should be adjusted.

Forms under which profits and commissions are covered are known to underwriters and adjusters as (1) *limited* or restricted forms and (2) *broad* forms. The limited forms contain a provision that the percentage of loss

of the profits shall not exceed the percentage of damage to the stock. In the broad forms there is no such provision.

Losses of Profits or Commissions. The loss of profits or commissions that an owner of merchandise or a selling agent will sustain, if the merchandise is damaged, will not always be proportionate to the damage to the merchandise itself. Businesses that sell high-priced merchandise would probably experience as much difficulty in disposing of articles damaged 25 per cent as if they were damaged 35 per cent.

If merchandise is taken by the insurer to be sold as salvage, the insured loses the opportunity of making any profits or commissions on it; nevertheless, his recovery under a limited form can be no greater percentage of the profits or commissions than the percentage of physical damage developed by the sale, although his loss of profits, if he cannot replace the merchandise, will be 100 per cent.

Under standard broad forms, the insurer would be liable for the total profit the insured would have made on any merchandise taken over or sold as salvage unless it could be replaced in time to produce the sales and profits that would have been produced had no loss occurred.

Standard forms are drafted to pay for all or part of the profit the insured will actually lose; nonstandard forms often obligate the insurer to pay the profit that the insured will make on the replaced merchandise, creating, at times, situations in which the insured makes a double profit by reason of a loss.

In the East, the merchandise described in standard forms is that, sold or unsold, which is (1) ready for packing, shipment, or sale, (2) in the hands of others than the insured for processing or finishing, or (3) on consignment.

In the West, it is finished merchandise, sold or unsold.

In nonstandard forms, descriptions vary, but generally describe all merchandise on the premises.

Adjustment Factors. In the adjustment of a profits or commissions loss, any of the following factors may be necessary to its determination:

1. Quantity of the described merchandise on the premises at the time of loss
2. Selling price of each lot
3. Replacement cost of each lot
4. Rate of commission on each kind of merchandise sold

5. Percentage of damage to each lot of merchandise
6. Expenses that can be avoided or discontinued
7. Expense necessarily incurred for reducing loss
8. Use of the described stock after loss
9. Whether the insured can acquire or make use of other merchandise or premises, continue sales, and, by doing so, reduce the loss

Quantity. When all merchandise is identifiable and can be inventoried, quantities can best be established by making an inventory. When it has been destroyed, quantities must be established or estimated from the books or other evidence; at times, from both.

Selling Price. Standard forms used in the East refer to

the price which would have been receivable by the insured on the date of the loss from the sale of the described stock.

Nonstandard forms often use the words "selling price less largest discount." It is accepted practice to treat selling price as the net amount the insured would have received if he had sold the merchandise on the date of the loss at the price or prices he was currently receiving. If his selling prices vary according to quantity sold, his price for the quantity involved must be used. Any sales discount applying to the quantity must be deducted, also any allowances of outbound transportation costs, or prepayment of any such costs not charged to the buyer. Selling prices should be determined from an examination of the insured's sales records, sometimes from his price lists.

Replacement Cost. Replacement cost of merchandise in the hands of a merchant is accepted as being current invoice price, less any trade or cash discount, plus any cost of transportation. It is ordinarily determined from an examination of recent purchase invoices in the hands of the insured, or from purchase contracts or quotations for replacement made to the insured by his suppliers. At times it should be determined by a survey of the market. Replacement cost of finished merchandise in the hands of the manufacturer must be treated as his cost of reproduction and checked against the adjustment of the loss on the merchandise to make sure that the merchandise value was treated in the same way.

Rate of Commission. Rate of commission is almost always a stipulated percentage of the selling price, occasionally a stipulated amount for each unit sold. It is determined from the records of the seller or the contract he holds.

Percentage of Damage. Percentage of damage is stipulated in Eastern forms as

the percentage of damage as shown by the final outcome of the adjustment of the loss or damage on stock by companies insuring the same, including the result of any salvage handling operations, whether completed before or after such adjustment, or if there is no insurance on such stock, then by such ascertainment and estimate by the parties hereto as is provided for in the printed conditions of this policy.

If the adjuster handling the profits loss is also handling the loss on the merchandise, he will develop the percentage. If another adjuster is handling the loss on the merchandise, information as to the percentage can be had from that adjuster. If there is no insurance on the merchandise, a situation almost never encountered, the adjuster handling the profits loss develops the percentage.

Expense Avoided or Discontinued. Expenses that the insured can avoid or discontinue following damage or destruction of the merchandise are ordinarily those incurred in selling and delivering. Commissions paid to sales people, and packing and delivery charges, are examples. When merchandise is destroyed, sold to a salvage buyer, or surrendered to the insurers, all or part of such expenses can generally be discontinued. A check of the books will develop the expenses being paid before the loss. Inquiry and observation of conditions in the premises should enable the adjuster to determine what reduction, if any, will be possible because of the loss. Expenses such as salaries, rent, and overhead are not to be considered. The situation is not the same as that in business interruption insurance.

Expense to Reduce Loss. Expense necessary to reduce loss is ordinarily that incurred in preventing the spread or increase of damage to the merchandise. There is no established practice for apportioning such expense between insurance on the merchandise and that on the profits. No part of any expense necessary to expedite the resumption of business is properly chargeable against profits insurance. Expense incurred in reduction of loss is collectible to the extent that it does not exceed the amount by which it reduces the loss.

Use of Stock after Loss. If, after loss, the insured can reduce his profits loss by using the damaged stock to continue sales, it is a policy require-

ment that he do so and credit the profit made on it against what would otherwise be his profit loss. The situation is rarely encountered under circumstances that permit an accurate accounting for the profit realized from selling the damaged merchandise. Ordinarily, the situation is resolved by agreement.

Use of Other Merchandise or Premises. Whether the insured can acquire other merchandise or premises, continue sales, and thereby reduce his loss is a question of fact. Discussion with the insured is necessary, and sometimes the adjuster should make an independent survey of space to be rented or merchandise to be had for prompt delivery.

Coinurance or Average. All standard profits forms contain coinsurance or average clauses. These clauses require an amount of insurance equal to a stipulated percentage of the expected profits on the merchandise in the premises.

Procedure. The merchandise described in one profits policy will be a single commodity that the insured will sell to all buyers at the same rate of profit, while that described in another will be a stock of various kinds sold at different rates of profit. In one profits loss, the merchandise will be in sight; in another, out of sight; in others, both conditions will be encountered. Procedure in any profits loss must be adapted to the situation.

When merchandise is in sight, the profits loss, like the stock loss, is adjusted from an inventory; when it is out of sight, the profits loss, again like the stock loss, is adjusted from the books.

When merchandise is in sight, the inventory made for the purpose of adjusting the stock loss may be copied for use in handling the profits loss. The inventory will ordinarily be made at replacement cost. If the same rate of profit applies to all lots of the merchandise, the profit on the entire stock can be determined by the single calculation of multiplying the inventory total by the percentage of profit on cost. In accounting practice, the rate of profit is generally recorded as a percentage of selling price, which can be converted to the percentage on cost by dividing it by 100, less the percentage of profit on sales. If lots of merchandise are sold at different rates of profit, the profit on each lot will have to be determined by computing its selling price and setting up the difference between selling price and replacement cost. By adding three columns to the inventory sheets, either by ruling or pasting ruled paper to them, writing space will be provided in which unit selling price, extension, and profit

can be entered on the same line as replacement-cost figures. An inventory written up in this way shows on the line of each lot entry, the profit on each lot, and at the foot of the profit column, the profits on the merchandise on the premises.

When merchandise is out of sight and the books do not show quantities on hand but do show the book value of the stock, the book value, which is really book cost, is accepted and, after being adjusted by increase or reduction to an agreed replacement cost, is multiplied by the percentage of profit on cost. The result is the profits on the merchandise on the premises.

When adjusting a loss under a limited or narrow form, that is, one stipulating that the percentage of loss to the profits shall be determined by the outcome of the adjustment on the merchandise, the adjuster checks the stock adjustment against the profits, setting up the profits on each lot and the percentage of loss on the merchandise in the lot. After doing so, he inquires into the possibility of replacing the merchandise in time to prevent loss of sales. If the merchandise loss was settled by a salvage operation, the profits loss cannot be adjusted until the results of the salvage operation are in hand. Inquiry must always be made as to the possibility of avoiding or discontinuing expenses.

In adjustments under a broad form, the percentage of loss to the profits is open to argument. It may or may not be the same as the percentage of loss to the stock. If the stock is taken over for salvage, the loss to the profits on the quantity of stock taken will be total, unless the stock can be replaced in time to prevent loss of sales. As is the case under a limited form, profits are subject to deductions for expenses that can be avoided or discontinued.

The application of coinsurance or average clauses is made in the same way as when handling losses on stock.

Nonstandard Forms. Nonstandard forms often call for fantastic adjustments. Under some the insured is entitled to collect the same amount of profit on the raw material to be used for the making of a dress as on the finished dress itself.

Unsettled Questions. There has been no litigation to determine how a broad form should operate in a loss when the owner retains the damaged merchandise to be sold as he sees fit. If an owner insured under such a form surrenders his salvage to the insurers and cannot replace it, it is accepted practice in the New York area to allow him to collect the profit

he would have made by selling it. But if he retains the damaged merchandise with the intention of disposing of it as best he can, the adjuster will find his ingenuity taxed to the utmost to work out an adjustment that will be either equitable or logical. If the insured intends to sell all of the damaged merchandise to a salvage buyer, he may receive more or less for it than the salvage value as agreed upon in the adjustment under the insurance on stock. If, however, he reconditions the merchandise and distributes it to his regular trade, he will almost always net more from it than the agreed salvage value. Probably the amount that he will receive in excess of the salvage value agreed upon is a profit that should be credited against the profit loss. Certainly it is most difficult to make any estimate of what the figure will be, and there is nothing in the law books indicating how the figure should be applied even if it can be determined.

Alternative to Profits Insurance. Profits insurance is written to make it possible for an owner of merchandise to collect from his stock and profits insurance, in case of loss, the amount of money that he would have realized if he had sold the merchandise. This intent will be carried out if the facts and figures relative to the loss are clear and definite. But if they are not, and particularly if the problem of salvage presented in the immediately preceding section arises, the intent of the scheme of profits insurance may not be realized.

Profits insurance seems to have originated in connection with manufacturers' stocks, covered for cost of production. There is a developing tendency to cover finished goods in the hands of the manufacturer at selling price. Forms used in writing risks that qualify for such coverage generally state that such goods are covered at selling prices prevailing at date of loss, less the largest discount allowable on any quantity involved, and less any selling or delivery expense not incurred.

Insurance of stock covering at selling price, less unincurred expense, would solve most of the problems that arise under profits policies and simplify the adjustments of the losses in which profits insurance is now involved.

Final Papers. If the merchandise was in sight, final papers supporting adjustment of the profits loss should include an inventory of the merchandise, showing replacement cost and selling price, or, in lieu of selling price, the percentage by which the replacement cost must be marked up in order to show selling price. If the merchandise was not in sight, a book statement should be included in the final papers.

Bailee Risks

Bailees ordinarily encountered in losses are (1) carriers, (2) warehousemen, (3) processors, (4) contractors, and (5) cleaners and repairmen.

Carriers include railroads, truckmen, air lines, pipe lines, freight forwarders, and express companies.¹

Warehousemen variously operate tanks, grain elevators, or warehouses for storing property belonging to others.

Processors are generally bleachers, spongers, dyers, finishers, or custom tanners.

Contractors are makers of garments or other articles who receive raw or partly finished materials from customers and work them up into finished products.

Cleaners and repairmen may be laundrymen, dry cleaners, rug scourers, or the repairers of shoes, watches, clocks, automobiles, or other property entrusted to them.

Contract of Bailment. Under the contract of bailment, the relation of bailor and bailee begins when the bailor delivers the property into the possession of the bailee and ends when the bailee delivers it to the bailor, or when the bailor sells the property or otherwise divests himself of his interest in it.

Deliveries. Delivery to the bailee is generally actual, that is, the property is put into the freight car, on the truck, on the loading platform, or into the warehouse, processing, contracting, or cleaning plant. Delivery by the bailee, while generally actual, may be constructive. When the bailee puts the property in the possession of the bailor, and it is removed from the vehicle or premises of the bailee, the delivery is actual. When a carrier bailee notifies the consignee that a shipment has arrived at destina-

¹ Marine carriers are not within the scope of this book.

tion, there is a constructive delivery when the free time expires before the consignee removes the goods. To constitute a constructive delivery, the carrier must, if practicable, give notice to the consignee of the shipment's arrival. When this has been done and the goods are discharged in the usual and proper place, and reasonable opportunity is offered to the consignee to remove them, the liability of the carrier as such terminates.¹

Ownership of merchandise in a warehouse may be transferred from one bailor to another without physical movement of the merchandise. The warehouse receipt, when passed from one person to another, carries with it title to the property, the delivery of the receipt effecting a delivery of the merchandise. The adjuster will frequently have to determine the exact time when a delivery was made, in order to decide whether a loss falls under the policy of the bailor making the delivery or under the policy of the bailor accepting it.

Interest of Bailee. The bailee has an insurable interest in the property of the bailor and may cover the property by insurance. The insurance may be for the benefit of the bailor, the bailee acting as trustee, or for the benefit of the bailee because of (1) the bailee's lien on the property as security for what the bailor owes him for storage or other charges or (2) because of the bailee's liability for loss due to negligence on his part.

Liability of Bailee. The liability of a bailee for loss or damage to property delivered into his possession by a bailor will depend upon the class to which the bailee belongs and the terms of the contract under which the bailee is holding the property.

A common carrier, for example, is liable for any loss or damage of a bailor's property unless the cause of the loss is one that is exempted in the bill of lading. The Uniform Bill of Lading form used by the railroads sets forth exempted causes of loss in the following provisions:

CONTRACT TERMS AND CONDITIONS

Sec. 1. (a) The carrier or party in possession of any of the property herein described shall be liable as at common law for any loss thereof or damage thereto, except as hereinafter provided.

¹ *Becker v. Pennsylvania R. R. Co.*, 96 N. Y. Supp. 1, 5; 109 App. Div. 230 (1905), quoting *Tarbell v. Royal Exchange Shipping Co.*, 17 N. E. 721, 724, 110 App. Div. N. Y. 170, 180.

(b) No carrier or party in possession of all or any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the Act of God, the public enemy, the authority of law, or the act or default of the shipper or owner, or for natural shrinkage. The carrier's liability shall be that of warehouseman, only, for loss, damage, or delay caused by fire occurring after the expiration of the free time allowed by tariffs lawfully on file (such free time to be computed as therein provided) after notice of the arrival of the property at destination or at the port of export (if intended for export) has been duly sent or given, and after placement of the property for delivery at destination, or tender of delivery of the property to the party entitled to receive it, has been made. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon the request of the shipper, owner, or party entitled to make such request, or resulting from a defect or vice in property, or for country damage to cotton, or from riots or strikes.

Tariffs approved by the Interstate Commerce Commission, however, permit common carriers, such as railroads and truck lines, to limit liability on various kinds of shipments in consideration of a lower charge for transportation.

Bailees other than carriers are liable only for loss of the bailor's property in case of negligence, unless the bailee (1) assumes further liability, (2) agrees to keep the property insured, or (3) is liable for loss according to the custom prevailing in the trade in which he is engaged.

As stated in the quoted section of the Uniform Bill of Lading, a railroad may be liable as a carrier while transporting a shipment, but only liable as a warehouseman after the shipment has reached its destination and has been put in a freight depot, the free time allowed by the tariff having expired.

Bailor and Bailee Insurance. Bailors often carry their own insurance on property that they have delivered to a bailee while the bailee, at the same time, also carries insurance either on the property or on his interest in, or liability to care for, it. Bailee insurance is usually effected by use of the trust-and-commission clause. When the bailee covers the property itself, the clause generally reads:

on.....his own, or held by him in trust or on commission or on joint account with others, or sold, but not removed.

When he covers only his interest in, or liability to care for, the property, the form of the clause is substantially:

on his interest in, and legal liability for property held by him in trust or on commission or on joint account with others, or on storage or for repairs.

In bailor and bailee policies there are generally incorporated exclusions and excess provisions that call for special attention in case of loss.

Losses in Bailee Risks. Fire, explosion, windstorm, flood, and other perils affect personal property in the possession of bailees in the same way that they affect similar property in the possession of the owner. Therefore, the same methods of determining value and loss are used in adjusting losses on personal property in bailee risks.

But because in bailee risks there are some losses in which both bailor and bailee are interested in the same property, some for which the bailee is liable to the bailor, and others for which he is not, it is often necessary for the adjuster not only to determine the value and loss on the bailors' property in bailee risks, but also to develop evidence that will show whether the bailee is interested in it because of charges or expenses, or is liable for the loss, because of negligence or otherwise, to any of the bailors.

In bailee risks the bailee and the bailor may each carry insurance covering the property in bail, or the bailor may carry insurance covering the property, while the bailee carries insurance covering, not the property, but his interest in, and liability to care for, the property. Consequently, it is necessary in many losses to determine whether the loss on a particular article or lot of property should be borne by the insurer of the bailor or of the bailee, or by both, and, if by both, in what proportions.

In bailee risks the character of the property and the way it is received, handled, stored, or delivered may be such as to produce a loss that cannot be determined as falling on any one bailor and that, therefore, must be shared by all bailors, proportionately according to the value of the property belonging to each.

If, for example, 10 farmers had each stored in the same elevator 1,000 bushels of wheat of the same grade, making a total of 10,000 bushels in storage, and 2,500 bushels should be damaged as the result of a fire, it would be impossible to determine by which farmer the wheat damaged had actually been stored. Each farmer would be called upon to bear 10 per cent of the loss. The character of wheat is such that, when lots of the same grade are poured into the bin of an elevator, they become an

inseparable mass. The owner of each lot is entitled to withdraw the same quantity from the bin, but he cannot expect to take out the identical grain that he put in. One bushel of wheat of a stated grade is as good as another and can, therefore, be substituted for any other.

In the language of the law, things that can be substituted for each other in satisfaction of an obligation are *fungible*.

A similar situation exists when two or more purchasers buy for future delivery stipulated quantities of liquid in a tank. If the tank should be punctured by flying fragments from an explosion in nearby property and half of the liquid lost before the holes in the tank were plugged, each purchaser would share in the loss in proportion to the number of gallons of liquid that he had bought.

The same situation exists in a warehouse containing bagged sugar, or cases of canned goods, vegetables, fruit, or fish. The bags or cases are concentrated in the warehouse by the producer or a wholesaler who sells lots to retailers or others. When sales are made, warehouse receipts are issued for the lots sold, and, when called for, equivalent quantities are delivered to the purchasers by the producer or wholesaler. The bags of sugar or the cases of canned goods bear no individual marks or numbers and, because one bag or case is as good as another, the most accessible bags or cases are loaded out of the warehouse whenever the holder of a warehouse receipt calls for his merchandise. In case of loss, the owners of the sugar or canned goods participate according to the number of bags or cases in the warehouse owned by each.

Sometimes property of different kinds belonging to several bailors is stored in such a manner that when the structure housing it is damaged by fire, windstorm, or other peril, the property is mixed to a degree that would make the cost of separating it more than it would be worth after separation. If corn and wheat belonging to several bailors are stored in adjoining bins and the wall between burns away, the two kinds of grain may be washed together by the hose streams of the firemen. Each bailor will then own a proportionate part of the mixed mass of wet grain, determined by the relation of the value of his grain to the total value of all the grain just prior to the fire. In legal language, the situation existing after the fire is *confusion of goods*.

In some losses in bailee risks, notably cotton warehouses, the identifying marks on lots of articles of the same kind of property belonging to different bailors are obliterated. A check of the identifiable lots or articles will

establish what property of each bailor cannot be found and, therefore, what may be presumed to be among the unidentifiable lots or articles. In such situations each bailor is presumed to own a proportionate part of the unidentifiable salvage according to the same principle that controls when there is confusion of goods.

Adjusting Requirements. The adjustment of a loss in a bailee risk may require the adjuster to do everything he ordinarily would if the risk were an owner risk, and in addition special investigation and treatment of the following:

1. *Ownership of or interest in property held by bailee*

What was the ownership or interest when the property was delivered to the bailee?

Had any change taken place prior to date of loss?

2. *Possession of bailee property*

When was the property delivered to the bailee?

Where was it at the time of loss?

What quantity is shown by the bailee's records? By the bailor's records?

What physical evidence confirms or casts doubt upon the showing of the records?

3. *Contract between bailor and bailee*

What was the bailee expected to do with the bailor's property—transport, store, process, fabricate, clean, or repair it?

How is the contract between bailor and bailee evidenced—by bill of lading, warehouse receipt, written contract, invoice with imprint, ticket, trade custom, or oral statements?

Does the contract embody any special provision as to the bailee's liability in case of loss?

For what kind of losses is liability disclaimed? For what kind is it assumed?

Is the amount of liability limited to a stated sum?

4. *Loss and attendant circumstances*

Was the loss one for which the bailee is or is not liable? By reason of law? By reason of contract?

Is there any evidence indicating negligence on the part of the bailee, or of loss or damage caused by the bailor?

5. *Acts of bailee and bailor after damage*

Did bailee promptly notify bailor?

Did bailee do what he could to minimize damage and deliver whatever was left of the property to bailor?

What did bailor do to protect the property from further damage?

6. *Physical conditions in risk after loss*

Can the property of all bailees be identified?

How should any salvage be handled?

7. *Bailor and bailee insurance*

What insurance is carried by the bailee and what by the bailor or bailors?

What are the amounts and provisions of each policy?

Ownership of or Interest in Property. When a claim is made by the bailor who delivered the property to the bailee, there is ordinarily no question as to ownership or interest. But if the bailor, after delivering the property to the bailee, sells it but does not remove it from the bailee's premises, there may arise a question as to who owned it or at whose risk it was at the time of loss.

The ordinary routine of investigation begins with checking the record of the bailor's delivery of the property to the bailee. Unless the bailor states that he had sold or agreed to sell the property, or unless some other person asserts ownership or interest, no further investigation is required. But if a sale or an agreement to sell was made, the terms of either must be established by the adjuster, together with any special agreement as to a time at which the risk of loss was to be assumed by the buyer.

Possession by Bailee. The time that the property was delivered to the bailee will be evidenced by the date on the bill of lading or warehouse receipt, by the truck ticket, by the book entry, or perhaps by the oral statement of the person who made the delivery or the person who accepted it. In some bailee risks, notably compartment warehouses, it is necessary to know the location of the property at the time of loss. The quantity of the property as shown by the bailor's records should be checked against the quantity shown by the bailee's, and the reason for any difference established. The premises should be inspected, and the property itself, or any remains of it, examined to determine whether the physical evidence corroborates or casts doubt upon the showing of the records. The records of bailor and bailee may be honest and exact, but the property may be missing.

Contract between Bailor and Bailee. The purpose for which the bailee holds the bailor's property determines the nature of the bailee's interest in it, and, in some cases, as when property is being hauled by a common carrier, the amount of the bailee's liability, because property is often handled by a bailee at a lowered rate based on a low declared value. The purpose is evidenced by bills of lading, warehouse receipts, contracts to process, fabricate, clean, or repair, and other documents of similar nature. The purpose may be evidenced by the fact that the bailee is in possession, and what he is to do and to what degree he is liable may be fixed by a custom of the trade. In the absence of a written contract or trade custom, the purpose may have been determined by oral agreement. The contract may be silent as to the bailee's liability; it may provide for an assumption of liability by the bailee for certain kinds of losses or a limitation of liability for others. In many contracts, the bailee agrees to keep the property insured for the benefit of the bailor, sometimes at an agreed low value, sometimes for full value.

In handling bailor and bailee losses, the adjuster must familiarize himself with the contract between bailor and bailee, examining it if it is in writing; getting statements from both parties to it, if it is oral; and checking with informed persons, if it is governed by a trade custom.

Loss and Attendant Circumstances. Investigation of the origin and cause of a loss in a bailee risk should, as in other risks, be directed toward establishing whether the peril causing the loss is insured against by the policy under which claim is made. But in many cases it must go further and establish whether the loss is one for which the bailee is liable by reason of law, contract, or trade custom. If the loss is being handled under insurance effected by the bailee on the property itself and, therefore, for the benefit of the bailor, no special investigation of the bailee's liability need be made. Where claim is made under a bailor's policy, investigation is essential because, if the insurer of the bailor pays him a loss for which the bailee is liable, the insurer is subrogated to the bailor's rights and may recover from the bailee.

Except in those losses for which the bailee is liable by law, contract, or trade custom, a bailee is not liable unless he has been negligent. Any suggestion of negligence calls for investigation by the adjuster.

Acts of Bailee and Bailor after Loss. It is the duty of the bailee to give the bailor prompt notice in case of loss and, unless the bailor takes

over control of the property, to do what is possible to minimize the damage.

Carriers generally re-cooper packages damaged in transit and deliver them to the consignee. It is their practice to deliver anything that has been damaged unless it has been too badly damaged to be handled.

Warehousemen, processors, contractors, cleaners, and repairmen are expected to take all reasonable steps to minimize loss.

When the bailor takes over any of his property that has been held by a bailee, the duty to protect the property becomes his.

Physical Conditions in Risk after Loss. In addition to the physical conditions ordinarily encountered in owner risks after a loss, there will be found in some bailee risks confusion of the goods belonging to the bailors, and in others, salvage, the ownership of which cannot be determined. Either condition calls for joint action by bailors, bailee, and insurers. In grain elevators and cotton warehouses, adjusters generally work out salvaging plans with the elevator manager or the warehouseman for the benefit of all interests. But in warehouses storing a variety of identifiable property it is necessary to make individual agreements with the owners of each lot.

Theft or Surreptitious Removals. The theft or surreptitious removal from the premises of a bailee of property belonging to bailors is a common occurrence. As long ago as 1869, a commission appointed by Parliament reported on the prevalence of such occurrences in connection with warehouse fires in England. Fires are frequently started in warehouses in order to conceal theft or surreptitious removals of stored property.

Check of Insurance. The adjuster who is assigned to any loss in a bailee risk must find out what insurance is carried by the bailor and what by the bailee. The amounts and provisions of each policy should be recorded so that proper treatment will be given to all policies involved. A bailee may be liable for a loss, but his insurer may be reluctant to accept the situation and delay admitting liability for the claims of bailors. When such is the case, the insurers of the bailors should ordinarily pay their policyholders and take subrogation or loan receipts¹ so that they may proceed against the bailee and, through him, against his insurer.

On the other hand, the bailee may not be liable for the loss but may be carrying insurance that covers the loss of any bailor who is not insured or

¹ See Appendix R.

the excess of his loss over his insurance if he is insufficiently insured. A clear and comprehensive record of the insurance will help to bring the loss to its proper conclusion.

Bailor's Measure of Loss. Loss of a bailor is limited to the value of the property and, in case of damage, is measured by the difference between the value of the property before the loss and its value after the loss, not exceeding cost of replacement or repair. If the bailor delivered raw material to the bailee who, by processing it or fabricating it, increased its value, the bailor is entitled to collect on the basis of the increased value because the bailee can require him to pay for any work done. Labor follows the goods.

Bailee's Measure of Loss. If bailee's insurance covers only his interest, his loss, unless he has agreed to insure the property or has negligently caused its loss, will be limited to the unpaid charges he had earned by handling the property. When he is paid these charges, his insurer is entitled to an assignment and may enforce it against the bailors who owe the charges. A bailee should not be paid a greater sum than he would have been able to collect from the bailors had no loss occurred.

If the insurance contract contains a trust-and-commission clause that makes it cover the property and does not restrict coverage to the bailee's interest in, or liability to care for, the property, the bailee is entitled to an adjustment based on the cash value of the property at the time of the loss and must account to the bailor for any funds collected.

If the bailee's insurance limits the value of the property, he can collect no more than the declared value.

Right of Bailor to Independent Payment. The courts have construed the trust-and-commission clause, when used in a policy describing the property, as entitling individual bailors to adopt the bailee's insurance and, if the bailee fails to make claim for their property, to make claim themselves.¹

Property in Transit. When adjusting a loss under the policy of a bailor covering personal property that has been lost or damaged while in the possession of a common carrier and in transit, the adjuster should fix value and loss and have the insured furnish him with the following papers: (1) the contract of carriage, generally a bill of lading or an express receipt, (2) the freight bill, (3) any original invoice, memorandum, or other document describing the property, (4) copy of the claim made

¹ *Utica Canning Co. v. Home Ins. Co.*, 132 App. Div. 420 (New York, 1909).

against the carrier and copies of any correspondence relative to it, (5) consignor's verification, and (6) consignee's affidavit. These should be forwarded to the insurer with the proof of loss and the adjuster's report.

Many policies covering the legal liability of a carrier give the carrier permission to make settlements with shippers or consignees. When dealing with such policies, the adjuster will often find his work confined to auditing the carrier's records.

Warehouse Losses. Where a loss in a warehouse is confined to the property of a single bailor that can be identified, examined, or salvaged without difficulty, the adjustment work proceeds as in an owner risk. But when a loss is extensive, the adjuster may have to deal with the property of several bailors and may encounter a situation in which some work must be done for the common good.

If all the property can be identified, any lots that have been mixed should be separated, and a check should be made of all inventories or statements presented by the bailees against all the property involved.

If the property has been damaged in such a way that identification is impossible, the records of the bailors and the bailee should both be checked, and a comparison made between the total of the quantities shown by the records and the total that can be counted, measured, or weighed in the warehouse.

If the loss requires salvage operations, any salvage that can be identified must be credited to the bailor to whom it belongs, or to the insurer that has paid him.

If salvage cannot be identified, it should be sold for account of whom it may concern, and the proceeds apportioned among the bailors interested in it, or their insurers, according to values established.

When the adjuster is called upon to adjust a warehouse loss presenting such a complicated situation, he should try to centralize the adjustment of all losses under his own charge, or, if such an arrangement is not feasible, cooperate with other interested adjusters. Joint action for the benefit of all interests is necessary.

When confusion, debris, damaged elevators, exposure to the weather, or other circumstances require expenditures for the common good, it is advisable to develop a master inventory of all property in the warehouse, lotted according to ownerships, so that each lot of property can have charged against it its proper share of any general expense.

Whenever a total loss is paid on a lot of property stored in a warehouse, or whenever a lot is turned over to a salvor to be sold, the adjuster should take up from the insured the warehouse receipt or receipts if any have been issued. Eventually, they should be filed with the insurer. If a loss is adjusted by allowing the insured an agreed amount for damage, and the insured is to keep the property, the warehouse receipt should be left with the insured.

Warehouse Charges. When losses in warehouses are handled, charges must be kept in mind, as a warehouseman, except in case of negligence, has a lien on any salvage to the extent of his earned charges. Bailors should be notified that, before an adjustment is made, they must pay the warehouse charges to the date when the insurer takes over the salvage. Warehouse charges accruing after the salvage has been taken for account of either the insured or the insurer follow the salvage. Warehouse charges are not collectible by bailors, for the same reason that rent is not collectible under a policy insuring stock.

Substitutions. There are times when the burning of the contents of a warehouse gives rise to fraudulent claims for property that was not insured. The owners of the uninsured property compare notes with the owners of the insured property and, if there is a margin between the amount of insurance carried and the value of the property insured, the uninsured owner will frequently prevail on the insured owner to include the uninsured property in his claim. In the case of a cotton warehouse, a policyholder might have sold his cotton without canceling his policy, expecting to store other cotton at an early date to be covered by the same policy. If fire occurs while he has no cotton in the warehouse, his uninsured neighbor may prevail upon him to present a claim for the neighbor's cotton. Transactions of this sort are frequently suspected but seldom proved, as the parties tell a prearranged story. The broad coverage of a policy containing the trust-and-commission clause makes it extremely difficult for the adjuster to defeat improper claims of this sort. If he suspects that a substitution has been made, he should examine all purchase records of the insured and, if possible, get access to his bank account and canceled checks. The ordinary warehouse receipt for cotton is issued to the person who stores the cotton. Therefore, the receipt passes from hand to hand without even being endorsed, the final purchaser customarily paying all accrued storage charges. The warehouseman has no record

which will indicate who owns any particular bale of cotton that has been sold by the bailor who stored it.

In some cases, the adjuster will unearth substitutions made without the knowledge or consent of the insured. Occasionally, persons having access to the warehouse will remove property of good quality, substituting in its place an inferior grade. The substitution will generally be made in the hope of concealing the theft as long as possible. Such substitutions are not numerous and can be discovered only if the fire is extinguished before the property is burned beyond identification.

Losses in Processing Plants. Losses in processing plants generally require quick transfer of salvage to other plants where its processing can be completed, or where further damage can be prevented. If there is any question as to the liability of the bailee, or the liability of the bailor's or bailee's insurer, the adjuster should have an agreement executed to provide that the handling of the property shall be without prejudice to the rights of any party involved.

Many processors carry insurance for the benefit of customers, but with a stipulation in the policy that it does not cover property otherwise insured except for the value in excess of the other insurance.

Expenditures due to confusion of goods or made for the common good are treated as in warehouse risks.

Reports covering losses in processing risks should include abstracts or enclose copies of any contracts between bailor and bailee, or should refer to the legal reason or trade custom controlling the bailee's liability.

Losses on Contractor's Premises. In some contractor risks, the contractor owns none of the material he fabricates; in others, he owns part of it. When the contractor owns none, the adjustments follow the same general course as in warehouse losses. There is, however, often controversy as to the contractor's interest in the goods, his labor, materials, and overhead invested at the time of loss.

In other risks, a contracting operation will be carried on that is subordinate to the regular production of finished goods.

In contracting risks, the contractor should be instructed to notify all bailors of the occurrence of loss and call on them to reveal all details of the insurance they carry.

Fur-storage Risks, Cleaning and Repair Risks. As the insurance carried by persons who make a business of storing furs or by laundrymen,

cleaners, and repairmen is generally inland marine, and as it is often involved with the 10 per cent off-premises cover of household insurance, losses in such risks require treatment according to any special conditions in the policies and the receipts issued by the bailees.

Miscellaneous. The procedure followed in handling losses on goods in the possession of carriers, warehousemen, processors, contractors, and cleaners should be followed with necessary adaptation to special conditions when customers' goods in factories, stores, or shops are involved. Many manufacturers do special work on goods sent in by other manufacturers, while stores and shops often take in for repair, reupholstering, finishing, or cleaning the furniture, draperies, mattresses, and rugs belonging to customers. If these are destroyed or damaged on the premises, a bailor and bailee situation arises.

When such is the case, the adjuster should see to it that the factory, store, or shop takes steps to protect any remaining property from further damage and, as promptly as possible, (1) make a list of all customers whose property may have been damaged, (2) notify each by letter of the occurrence of the loss, and (3) ask in the letter what insurance the customer may carry, covering the property.

The replies can then be followed up, and the customers can be treated like bailees in any other risks.

Conclusion. In all bailee-risks losses, it is the duty of the adjuster to establish the value and loss of the bailor's property, and also the facts indicating whether or not the bailee is liable for the loss or has effected insurance which should bear the loss, even though the bailor carries his own insurance.

Business Interruption

Insurance covering the earnings of manufacturing plants, mercantile establishments, service organizations, and other income-producing risks is variously called *business interruption*, *use and occupancy*, *gross earnings*, or *prospective earnings* insurance. In England it is called *loss of profits* insurance.

The purpose of business interruption insurance is to pay the policyholder in case of loss, subject to the limitations stated in the form, what his business would have earned had no loss occurred. It is written under various forms.

Forms. Forms have changed greatly during the past fifty years. In the older forms, the insurance coverage was limited to a per diem, weekly, or monthly amount. In current forms, the insurance covers the earnings of the business with no such periodic limitations.

In the older manufacturing forms, the word "business" was defined as meaning the production of finished stock. In the newer forms there is no such definition, and business is now accepted as meaning transactions that produce money, that is, sales or service charges, or salable goods.

In some of the older forms, expense incurred for the purpose of reducing loss was subject to coinsurance. In the newer forms, it is not. The author belongs to the group of loss men and underwriters that thought it a mistake to free this expense from contribution or coinsurance requirements, but accepts, as the will of the majority, the action of the underwriting associations eliminating it from the requirements.

The language of all forms, except the new gross-earnings forms, often confuses the layman by the statement that the insurance covers net profits prevented from being earned and charges and other expenses that necessarily continue, to the extent that they would have been earned had no

loss occurred. The words concentrate attention on net profits and charges. The words in the gross-earnings form, "The measure of recovery in the event of loss hereunder shall be the reduction in gross earnings . . .," are much easier to understand. In time, all forms may be revised to use similar language.

In general, forms have been worded so that the liability of the insurer shall be limited to loss due to interruption of business caused by destruction of, or damage to, the buildings or contents of the risk and shall not be subject to increase due to other circumstances.

The forms stipulate that the property described in the policy must be destroyed or damaged by a peril insured against, or that access to the premises must be prohibited by order of civil authority given as a direct result of the operation in the vicinity of the premises of a peril insured against, before the insurer shall become liable for any loss.

By special endorsement that calls for an additional premium, liability will be assumed for loss due to interruption of power or other services received from outside sources when interruption is caused by any of the perils insured against.

Loss is limited to actual loss sustained following the casualty for not more than the length of time that would be required with the use of due diligence or dispatch to rebuild, repair, or replace such part of the property described in the policy as has been destroyed or damaged. The length of time is to be computed from the date of the casualty and is not to be limited by the expiration date of any policy. The length of time during which the insurer shall be liable when access to the premises is prohibited by civil authority is limited to 2 weeks.

The forms generally contain contribution clauses and special exclusions.

Readers of this chapter are cautioned to check what is here stated against the language of any form under which a question arises. Forms are frequently changed.

Current Standard Forms. The approved forms now ordinarily used by the fire-insurance companies in writing business interruption insurance are the two-item manufacturing-risk form, the two-item mercantile-risk form, the manufacturing gross-earnings form, and the mercantile gross-earnings form. The casualty companies use valued forms on many policies insuring against boiler explosions. As the forms are undergoing frequent revisions, it is inadvisable to present them in detail.

Nonstandard Forms. Some nonstandard forms are in use, the one most commonly encountered being the valued form. Valued forms ordinarily provide for payment on a per diem basis during suspension of business without limitation to actual loss sustained. No attempt will be made to discuss nonstandard forms.

Contract. The contract embodied in current standard forms is a conditional agreement to pay for actual loss sustained during suspension of business necessitated by, or resulting from, destruction of or damage to the buildings or contents described:

(a) for not exceeding the length of time that would be required with the exercise of due diligence and dispatch to restore the property, if it is destroyed or damaged by a peril insured against,

or

(b) for not more than ten days, if access to the property is prohibited by the civil authorities because of the operation in the vicinity of a peril insured against.

In adjusting practice, the contract is treated as including loss sustained when business is not suspended but when any damage to the property causes an increase in the cost of operation.

The subject matter of the contract is the future income available for paying charges and expenses and making a profit that may be earned by the use and occupancy of the buildings or contents described. The terms "prospective earnings" and "probable future earnings" are good descriptions.

In the two-item forms, the subject matter is stated as

ITEM I. (a) the net profit which is thereby prevented from being earned and

(b) such charges and other expenses, including salaries of officers, executives, department managers, employees under contract and other important employees, as must necessarily continue during a total or partial suspension of the business, to the extent only that such charges and expenses would have been earned had no loss occurred.

ITEM II. The insured's entire ordinary payroll expense for a period of time not in excess of ninety consecutive days immediately following date of loss, which may continue during a total or partial suspension of business, covering only to the extent necessary to resume the normal business of the insured with the same quality of service which existed immediately preceding the loss, and which would have been earned had no loss occurred.

In the gross-earnings forms, the subject matter is stated as

loss, directly resulting from necessary interruption of business . . . [with the stipulation that] The measure of recovery in the event of loss hereunder shall be the reduction in "gross earnings" directly resulting from such interruption of business less charges and expenses that do not necessarily continue during the interruption of business . . . but not exceeding actual loss sustained . . . "gross earnings" are defined as total net sales less cost of merchandise sold, plus other earnings derived from the operation of the business.

Increased cost of operating is sometimes specifically mentioned in special forms. The following is a quotation from one of them:

The conditions of this contract are that if any of the above described property be destroyed or damaged by fire occurring during the term of this policy so as to necessitate a total or partial suspension of business, or a less economical operation of the business than would prevail had no fire occurred, this Company shall be liable under this policy for the actual loss sustained, consisting of

Contribution requirements are based upon what would have been earned, had no loss occurred, during the 12 months immediately following date of loss. In the two-item forms the 80 per cent contribution clause is ordinarily used; in the gross-earnings forms, the 50 per cent. The 12-months earnings to which the clauses apply are referred to by adjusters and underwriters as the *business-interruption value*.

Under some circumstances, an agreed-amount clause is substituted for the contribution clause. The insured is obligated to keep in force an agreed amount of insurance. If he does, he may collect any loss in full.

The contract excludes:

1. Increase of loss
 - a. Occasioned by ordinance or law regulating construction or repair of buildings
 - b. Occasioned by the suspension, lapse, or cancellation of any lease or license, contract, or order
 - c. Due to interference at the premises by strikers or other persons with efforts to restore the property or resume or continue business
2. Any consequential or remote loss, and
3. (Applicable to manufacturing risks) loss resulting from destruction or damage of finished stock

Conditions. The insurer becomes liable under the contract when there is a suspension of business, which results in a financial loss to the insured, caused by (1) the destruction or damage of the property described in the contract by a peril insured against, or (2) the prohibition of access to the property by order of civil authority because of the operation in the vicinity of a peril insured against. Disability of the property or prohibition of access to it and consequent loss or reduction of earnings are, in combination, essential to liability.

Sometimes, destruction of the property does not suspend business. For example, the destruction in December of a canning plant that during the September and October harvesting period cans all the tomatoes its equipment can handle will not suspend business if the plant is rebuilt and can commence operation on the first of the following September.

Sometimes, a suspension of business is caused by the destruction of property not described in the policy. Consider the situation of a plant manufacturing machinery, which has the castings it uses made in a foundry of other ownership located in another community. If the foundry burns and deliveries of castings end, their lack will suspend production. The resulting loss, however, will not be one for which the plant's business-interruption insurance will be liable because it was not due to the damage or destruction of the property described. Consider, also, the situation of a plant that uses electricity generated at a distant station, or that receives heat, gas, or water from outside services. The destruction of the station or the interruption of any of the services will suspend business. The loss sustained will not be covered. The situation of the plant producing machines can be cared for by carrying contingent business interruption insurance on the foundry supplying the castings; that of the plant receiving electricity, gas, or water from outside services by having its policies endorsed for off-premises power, light, heat, gas, and/or water supply covers.

At times, fire, explosion, or other peril will destroy or damage property in the vicinity of a risk, and the fire department or other civil authority will temporarily prohibit access to it. Suspension of business will result. Formerly, loss under such circumstances was not covered. It is now covered for not more than a stated time, generally 2 weeks, by special provision in standard forms.

The period during which the insurer is liable does not exceed the

length of time, beginning with the date of the casualty, that would be required, with the exercise of due diligence and dispatch, to rebuild, repair, or replace the property. It may, however, be less. If, for example, business could be resumed in a new location within a month after the property was destroyed and could operate without diminution of volume or increase in cost at the end of another month, the period of loss would be 2 months, although it might require 8 months to rebuild the destroyed property. As another example, if the operations of a manufacturing plant were suspended by damage to buildings or equipment and the repairs necessary to resumption would require 6 months, but the raw material on hand, or the maximum amount obtainable, would have been worked up in 3 months, the period would be limited to 3 months.

The two-item forms cover, under Item I, the net profits prevented and the charges and expenses that must necessarily continue during total or partial suspension, to the extent that they would have been earned had no loss occurred; under Item II, the entire ordinary payroll expense. The language of the forms often misleads the layman, as it concentrates his attention on profits, charges, and payroll and causes him to overlook the need of establishing the probable sales or sales value of the production out of which the charges and expenses would have been paid, or earned, and net profit made.

It is probable that underwriters will eventually find better words for expressing the intent of Item I, which is that it shall cover the insured's prospective receipts, in excess of his direct costs, from sales or salable production.

The words in the gross-earnings forms are much easier for the layman to understand:

The measure of recovery in the event of loss hereunder shall be the reduction in "gross earnings" directly resulting from such interruption of business less charges and expenses which do not continue during the interruption of business.

There follows the definition:

For the purpose of this insurance "gross earnings" are defined as total net sales less cost of merchandise sold, plus other earnings derived from the operation of the business.

The business-interruption contract covering a manufacturing plant excludes loss of earnings resulting from destruction or damage of finished

stock because its intent is to cover only those earnings that would have resulted from productive operations after a casualty. The manufacturer can insure against loss of accrued earnings on finished stock by covering the difference between the cost and the selling price of such stock under profits insurance or by covering the stock under insurance subject to a selling-price or market-value clause.

Increase of loss, occasioned by the necessity of constructing or repairing buildings according to ordinance or law requiring materials or arrangements that would take more time to acquire or put in place than those existing at date of loss, is excluded in the same general way that increased cost of repair because of ordinance or law is excluded in the insurance contract covering property.

Increase of loss over the amount that would have been sustained had there been no cancellation of any lease, license, contract, or order is excluded, since the loss should be related only to the damage to the property. For example, if, following a casualty causing a suspension of operations for 3 months, an order calling for production over a period of 6 months is canceled, the increase of loss beyond the 3-months period is excluded.

Exclusion of increase of loss due to interference by strikers, or other persons at the scene of the loss, with repair or replacement work, or efforts to resume business, eliminates loss due to uninsured perils.

Remote or consequential loss is excluded. Its possibilities do not bear any definite relation to the physical conditions of the property by which the underwriter judges the desirability of the risk.

Two kinds of consequential loss are rather frequently encountered: (1) loss occurring during the time in excess of that necessary to restore the property, when restoration is delayed because the insured, or the building owner, cannot or will not complete adjustment of the property loss, and (2) loss of business after restoration has been made because customers have turned to other suppliers. The loss during delayed restoration is due to controversy; that following restoration, to the unwillingness of old customers to resume business relations. Controversy and unwillingness to buy are no part of physical hazard. Loss due to either is not covered.

Blanket and Contingent Insurance. When two or more plants of the same ownership contribute materials to the operations of one another,

the operations at all plants may be covered by blanket business interruption insurance.

When the product of one plant, known as a contributing plant, is necessary to the operations of another, known as a dependent plant, of different ownership, the possibility of loss that either may suffer because of suspension of business at the other may be covered by contingent business interruption insurance.

Effects of Perils. Fire, explosion, windstorm, or other peril may destroy a manufacturing plant and cause a total suspension of its business. In some plants the design is such that all material must move through a single building or process, a *bottleneck*. In such a plant the destruction of the building or the disabling of the process make it impossible to continue operations and may, therefore, cause a total suspension of business.

On the other hand, the peril may damage rather than destroy the building, equipment, stock in process of manufacture, or raw stock of a plant in such a way as to prevent full operation of the property but still permit some production. In this case there will be a partial suspension of business.

In similar fashion, the destruction of a mercantile risk will produce a total suspension of business while damage to it may permit some sales to continue and, therefore, cause only partial suspension.

Business-interruption Losses. Following the destruction of a manufacturing plant there is an immediate ending of production. Unless there is a reserve of finished stock outside the area of destruction, there will be no more sales. If there is a reserve, sales will end when it has been exhausted. When sales end, income ceases, and until the plant is rebuilt or the manufacturer purchases or leases a new one, or arranges to have his product made for him in other plants, there will be a total suspension of business.

Many costs, charges, and expenses necessary to the operation of the business will not continue. Payments for materials, supplies, and power, ordinary payroll, compensation-insurance premiums, and payroll taxes for labor that is laid off are examples. But other charges and expenses will continue for varying amounts and periods of time. Skilled employees, for example, may hold contracts under which they must be paid, perhaps for 6 months or a year. Interest on indebtedness will continue, as will taxes on real estate, at least in part. In some instances a basic daily, weekly, or

monthly charge on a power contract continues, and in others a similar charge on royalties. Salesmen away from headquarters may have to be paid the expense of traveling home, and some office employees must be retained for accounting work and to look after collections or other details.

Stockholders or owners will lose the profits the business had been making.

Following damage to a plant, as contrasted with its destruction, it may be possible for the manufacturer to put the property in operating condition in a short time and suffer nothing more than reduced production or an increase in the cost of producing with a moderate loss of profit until full operations are resumed. If he is resourceful, he may even make up delayed production by renting temporary quarters or additional equipment, or by running overtime after the plant has been put in order. Under such circumstances, his loss will be no greater than the extra expense incurred as a result of the delay and the emergency measures.

The destruction or damage of mercantile risks produces losses that differ in detail, but not in principle, from those occurring in manufacturing risks.

Generally speaking, the amount of any business-interruption loss is measured by the adverse effect of the destruction or damage of the property on the succeeding balance sheets of the business, not, necessarily, on the first one made after the loss.

Loss resulting from order of civil authority prohibiting access to the premises can be no greater than the gross profit on the sales that would have been made if the public had been admitted. Generally, it is less. In some instances the business will lay off sales personnel or otherwise reduce expenses while customers are denied access to the premises. In others, customers will, after prohibition of access has been ended, come in and buy practically all that they would have bought during the period of prohibition as well as afterward.

Circumstances That Determine Amount of Loss. The amount of a business-interruption loss is determined by

1. The damage to the property described in the policy, or the order of civil authority, prohibiting access to the premises, and the effects of the damage or of the order on the sales, production, or the cost of operating the business

2. The rate at which the business had been selling or producing before

the loss, and the probable rate at which it would have sold or produced after the loss

3. The time required, with the use of due diligence and dispatch, to rebuild, repair, or replace the property, or the time for which available materials or other controlling circumstances would have permitted operations

4. The expenses that can be discontinued while the business is suspended

5. The possibility of continuing business at an expense that will permit earning more than direct costs of operation

Methods of Adjustment. Two basic methods of adjustment are used for business-interruption losses: (1) the forecast method and (2) the workout method. Details of the two are variously combined in many adjustments.

When the *forecast* method is used, the adjuster, shortly after the occurrence of the loss, estimates the business-interruption value and the amount of loss and tries to agree with the insured upon

1. The probable earnings, had there been no loss, for the 12 months following date of loss

2. The period of the suspension

3. The sales or production that will be lost during the suspension

4. The charges and expenses that will not continue during the suspension, or

5. The increased cost of producing or selling during the period necessary to restore the property, and/or

6. The amount that should be spent to reduce loss under the policy

7. The amount for which the insurer would be liable under the policy if no expenditures were made to reduce loss

If the ordinary payroll is specifically insured, estimates and efforts to agree also include

8. The amount of ordinary payroll expense that determines how much insurance should be carried on payroll to satisfy contribution requirements

9. The ordinary payroll expense necessary to resume operation, that would have been earned if no loss had occurred

When the *workout* method is used, the adjuster authorizes the insured to

1. Replace, repair, or recondition the property as soon as possible, resume or continue operation, and, when restoration has been completed, present claim for the difference between the probable net profit that would

have been earned, had no loss occurred, and the actual net profit or net loss resulting from operations during the period of restoration, and/or

2. Make expenditures necessary to reduce loss and contrast the amount spent with the sum for which the insurer would have been liable if the amount had not been spent

The objectives, when either method is used, are satisfactory agreements upon the following factors:

1. The amount of the year's probable earnings that will determine whether or not the operation of the coinsurance or contribution clause will reduce the liability under the insurance

2. The actual loss sustained, which may be

a. The margin between selling prices and direct costs of the sales lost, less any charges and expenses that do not continue

b. The increased cost of producing or selling

3. The expense, if any, necessary to reduce loss under the policy

4. The amount by which the loss under the policy will be or was reduced by the expense.

Required Investigation. It may be necessary for the adjuster to find the answer to any of a series of questions. Answers to some can be made with certainty if investigation is thorough, but to others they can be nothing more than opinions of what is probable. As the following questions are phrased, they apply to losses that the adjuster plans to consider by the forecast method before the property has been rehabilitated.

1. When, how, and to what extent was there destruction of or damage to any building, structure, piece or group of equipment, lot of stock or supplies, or other property described in the policy?

2. How and in what degree will the destruction or damage suspend business and reduce the income that the insured expected to receive from it or increase the cost of operating it?

3. What circumstance or combination of circumstances will determine the length of time following the casualty during which the insurer will be liable for the loss?

a. The time which, with the exercise of due diligence and dispatch, would be required to rebuild, repair, or replace buildings and equipment

b. The time for which the damaged or destroyed raw stock would have made operations possible

- c. The time required to replace or restore the damaged or destroyed raw stock
- d. The time required to replace or restore to the same state of manufacture in which it stood at date of loss any destroyed or damaged stock in process of manufacture
4. Will any circumstance not covered by the insurance delay resumption of business at normal cost?
5. Will the insured suffer loss due to reduced income or increased cost of operation or a combination of the two during the entire time required to rehabilitate the property?
6. What should be done by the insured to shorten the time and what should be the cost?
7. What was the experience of the business before the date of the casualty, and what would be its probable experience after that date had the casualty not occurred?
8. What loss of earnings will the insured probably sustain during the period of rebuilding, repairing, or replacing if the work is done during ordinary working hours?
9. To what extent can the probable loss be reduced by intelligent use of overtime or by other expediting expenditure?
10. What part of the loss is not covered by the policy?
11. For what part of the loss is the insurer liable after giving effect to contract exclusions or to contribution requirements?

In losses that are to be adjusted by the workout method, the questions to be answered are of the same import, but they will be asked, after the property has been rehabilitated, about what has occurred and what has been done instead of what might occur and what should be done.

Procedure. Procedure should include (1) getting the insured's story, (2) discussion and explanation, (3) examination and listing of policies, (4) inspection of the property, (5) inquiry into date, time, and cause of loss, (6) approval of efforts to resume operations, (7) authorization of expense necessary to reduce loss, (8) choice of method of adjustment, (9) preparation for adjustment, (10) fixing by agreement or appraisal the amount of the business-interruption value and the amount of loss, (11) applying the terms of the policies and determining the amount for which any insurer is liable, and (12) reporting to the insurer or insurers.

The Insured's Story. The adjuster should get the insured's story, asking him to tell how, in his opinion, the destruction or damage of the property will affect production, cost of operating, or sales, what, if anything, can be done to reduce loss, and how resumption of operations and restoration of the property can be accomplished in the shortest possible time. Prompt contact with the insured is essential in situations requiring emergency measures to expedite resumption.

In minor losses, the story is short and informal. The insured points out the damage to building, or the damaged machines if he is a manufacturer, or the damage to building, or the damaged fixtures, stock, or store section if he is a merchant, and states his knowledge or opinion of how the damage will affect production, sales, or costs and how he can restore the property with the least loss of time.

In large and complicated losses, the controlling person in the insured's organization, the responsible associates and employees, the producer, and the public adjuster, if one has been employed, should join in the discussion by which the story is developed.

If the property has been destroyed or severely damaged, the insured should be questioned as to the possibilities of acquiring other property in which he can resume business. If it has been damaged but offers possibilities of early repair, methods of repair should be discussed.

The insured's opinion as to the possibility of reducing loss by expenditures for emergency installations or repairs, overtime work, or the services of friendly competitors who will make his products for him or supply him with goods that he can sell, should be asked for and considered.

Discussion and Explanation. Discussion will reveal the attitude of the insured, whether he is cooperative or otherwise and will aid the adjuster in estimating his ability. It will also inform the adjuster of the problems that will be presented in the adjustment and alert him to the necessities of preparing to cope with them.

The adjuster should learn how to present in language that claimants will readily understand the purpose of business interruption insurance and how it operates. The wording of standard two-item forms is somewhat involved and leads many uninformed claimants to expect payment for the daily, weekly, or monthly averages of net profits and fixed charges instead of for the lost earnings on sales or production out of which the charges

would have been paid and the profit made, or the increased cost of operating, if volume can be maintained.

If the claimant, following a total suspension of business, offers to prepare a statement of net profits and continuing charges and expenses computed according to the averages of his experience, he should be told that, if he bases his claim on the averages, he may be asking too much or too little, depending upon what loss of production or sales is probable. If his business is the same from month to month, a claim on the basis of the averages will be in order, but if his business fluctuates, the claim will be too high if the suspension occurs during low-volume days, weeks, or months, or too low if during high-volume periods.

There are three kinds of business-interruption losses: (1) loss due to reduction of sales or production, (2) loss due to increased cost of producing or selling, and (3) loss due to expenditure made for the purpose of reducing loss. After learning the facts of the situation and which kind of loss the insured will sustain, the adjuster should explain to him, unless the insured has a thorough understanding of the contract or is being assisted in the adjustment by an informed and competent adviser, the purpose of the contract and how the claim should be prepared so that the purpose will be fulfilled. Explanation should be made, as far as possible, in nontechnical language, but the adjuster must be prepared at any time to use the exact words of the form, if the insured seems to be doubtful of the explanation, and point out their application to the matter being discussed. Examples follow.

Loss Due to Reduction of Sales or Production. A manufacturing plant is severely damaged. All operations will be suspended for 3 months. The business cannot be transferred to another location. The adjuster should say to the insured about what follows:

Your business interruption insurance is intended to do for you substantially what your business would have done if your plant had not been disabled.

You expect to be shut down for three months. You tell me that if you could run you would produce in the three months about \$25,000 worth of salable goods. You say that the material, labor, power, and other items of variable manufacturing expense necessary to produce the goods would add up to about \$15,000. If I have understood you correctly, you should have some \$10,000 left over out of which to pay salaries, taxes, and other charges and make your profit.

If, therefore, you get from your insurers \$10,000, less whatever you can save on the charges because you are not operating, you ought to be as well off as if the loss had not occurred.

If what I have said to you sounds fair and you cannot suggest a better way of getting at your loss, let's check the books and papers and see whether you are carrying enough insurance, and also, whether we can agree on the arithmetic of the loss.

During the most stressful days of World War II, the author was assigned to a business-interruption loss in a plant casting alloy ingots. The insurer's loss officer who telephoned the assignment warned of difficulties with the claimant. There had been a similar loss the year before, controversy developed, accountants were put on the books and reported that the loss was some \$15,000. The insured disagreed with their conclusions, there were arguments and ruffled feelings, the producer was embarrassed, and in the end the companies paid some \$30,000 and an accounting bill of more than \$2,500.

Forewarned, I met the insured at the plant, finding him to be a vigorous, astute, foreign-born citizen, frank and easy to talk with. He showed me the furnace and rotating mold bed where an explosion had occurred and told me what had happened. A break in the furnace front had allowed molten bronze to pour into the water pit under the bed. At the time, the water in the pit was at its normal level. The intense heat of the incandescent metal produced a flash steam explosion and blew the mold bed out of place. Repairs took 5 days. They had been completed, and the furnace and bed were in full operation when I saw them.

The insured told his story clearly and with engineering accuracy. I questioned him and learned that the furnace ran one heat a day and that war orders in hand called for capacity operation of the plant. During the 5 days that the furnace did not operate he had laid off the molding crew. I said to him,

If I have followed you, you have lost five heats. You would have sold the product of those heats for so many dollars. You did not consume the metal you would have cast into the ingots or the gas you would have used to melt it, and you did not spend the money that you would have paid the furnace crew. Am I right?

He answered, "Yes."

Then, if the insurance companies pay you for the sales value of the ingots you would have cast, less the value of the metal and the gas you did not consume, and

the amount of the wages you did not pay while the furnace was not operating, won't the payment cover your loss?

He answered, "It will."

Have your accountant make up a statement, and we'll check it and also check the amount of insurance you are carrying and work out how many dollars the companies owe you.

The loss was closed to the satisfaction of both of us in the afternoon of the same day.

Loss Due to Increased Cost of Producing or Selling. A manufacturing plant is damaged by an explosion that wrecks the structure housing the water-driven turbines and generators that supply the plant with power, except during periods of low water in the river. In order to operate during low-water periods, or at times when, because of need for repair or other reason, the turbines and generators could not be used or could not deliver sufficient current, the plant maintains a connection with the power line of the local utility and can switch in outside current. The cost of its water-generated current is considerably less than of current taken from the utility. The statement to the insured should be,

Your business interruption insurance is intended to do for you substantially what your business would have done if your turbines and generators had not been put out of commission.

You believe you will be able to repair them and get a normal output of power in one month. During that time you will use the higher cost current from outside.

If your insurers pay you the increased cost of current, you will show no loss on your operations.

This situation has been encountered by the author in several paper-mill losses in New England, all of which were adjusted without controversy as to the principle involved.

The confusing verbosity of business-interruption forms that state the subject matter of the contract as the net profits prevented, and the charges and expenses that would have been earned, makes it hard, at times, to correct the misapprehension of a claimant whose loss is due to increased cost of operation but who, from reading the form, believes that he is entitled to a payment equivalent to the daily, weekly, or monthly average of his profits and charges during the time needed to restore the property.

In a very large loss sustained by a concern producing floor coverings, the officer in charge of the adjustment labored for several months under

such a misapprehension. All structures making up the concern's plant had been destroyed, except the brick magazine in which were kept the blocks used in printing the product. Operations at the plant were totally suspended. The estimated time necessary for restoration was 10 months. Such, however, was the enterprise and standing of the concern that, within a week after the destruction of its plant, contracts had been made with friendly competitors to use their idle capacity and resume production. Material was made up according to the concern's formulas and imprinted with the blocks which were trucked to the competitors from the magazine. The concern did not lose a sale. On the contrary, its sales increased after the loss far beyond its budgeted expectations. Its loss, therefore, was the excess cost of producing, as the competitors charged about 7 cents more for each square yard than it would have cost the insured to produce in the plant that was destroyed. The officer and his associates, however, read the policy as meaning that they were entitled to collect the charges they would have earned and the profit they would have made from operating the plant, without giving credit for the net receipts from the sales of goods made for them in other plants. It was necessary to present the officer and his first advisers with several statements showing that the concern was losing no more than the excess cost of producing and handling the goods they sold. He finally sought advice from an outstanding accounting firm. The firm explored the situation and advised him that he should base his claim on the increased cost of the product.

As standard forms now specifically provide that expense necessarily incurred for the purpose of reducing loss is not subject to contribution and is collectible to the extent that it does not exceed the amount by which the loss under the policy is reduced, it is easy to persuade the insured to make special installations or unusual purchases, or to arrange for overtime operation when these will reduce loss.

The necessity of examining the books and records of the business should be explained in connection with the provision in the contract that the amount of insurance that should be carried and the amount of any loss are both to be determined after giving due consideration to the experience of the business before the loss and the probable experience after the loss.

In serious losses—losses in which the period of restoration will be long and losses that occur at a time when general business or the particular industry is anticipating a changing future—the adjuster should explain to

the insured that his experience before the loss may not be indicative of his probable experience had no loss occurred. In many instances the insured will assert that his prospects for the period after date of loss were better than his past experience. He may be right or wrong.

Examination and Listing of Policies. Examination and listing of the business-interruption policies will inform the adjuster as to the coverage and amount of the insurance. If there is coverage under both items of a two-item form, the amount under each item should be listed separately. There are today very few nonconcurrencies in business-interruption policies because standard forms are generally used.

In serious losses, examination should be made not only of the business-interruption policies but also of all other policies covering building, contents, rents, leasehold, extra expense, or profits and commissions. Policies covering stock should be particularly examined for market-value or selling-price provisions. All policies covering the property should be examined for debris-removal clauses.

Unless the adjuster is informed as to all insurance covering in or on the property, he will not be able to make an equitable allocation of any expense that may be incurred for the common good.

Inspection of Property. In ordinary losses, inspection follows a simple routine. The adjuster identifies the property, sees the physical evidence of its damage by a peril insured against, and notes how the damage will curtail production, reduce sales, or increase operating costs. At the same time he sees what, if anything, is being done or should be done to resume operations or use of the part of the property that was affected.

In serious losses, inspection must be directed according to circumstances. In some, it should be repeated at intervals as the work of restoring the property progresses.

The following outline gives some general idea of how inspections may be made in order to establish the facts or show the probabilities that are proved or indicated by the appearance of the property.

Identification. The property in which operation will be suspended or made more expensive should be checked against the description in the policy.

Location of Damage. The structure, equipment, or stock that was damaged should be determined as being within or without the area covered by the policy.

Cause, Extent, and Degree of Damage. The evidence of fire, explosion, wind, or other peril insured against should be noted, also any evidence of electrical injury, collapse, flood, or other peril not insured against. If there is evidence of damage caused by both kinds of perils, it should be noted whether (1) the damage done by each kind of peril can be definitely determined or (2) the damage done by both kinds of peril is so mixed that the damage done by each kind cannot be definitely determined.

The extent and degree of damage should be noted, and the repairs or reconditioning necessary to restore structure, equipment, or stock to tenable or usable condition visualized.

Effect of Damage on Operations. The effects of the damage on the use of the property should be noted, whether it has necessitated the shutting down of the plant or the closing of the store, or has affected only part of the property, permitting operations to continue in the rest.

The effect on the business of the impaired usefulness of the property should be noted as (1) curtailment of production, (2) loss of sales, (3) increased cost of operation.

Possibilities of Resuming Operation. Physical conditions pointing toward temporary or permanent repairs should be noted, also those indicating whether it will be advisable to remove operations in whole or in part to another location.

The time necessary to make repairs should be estimated according to the conditions noted.

General Condition of Property. The general condition of the property should be noted, its suitability and its capacity. Particular attention should be given to evidences of use or idleness prior to date of loss.

When inspecting property that has been damaged rather than destroyed, the adjuster should give special attention to the sections of the building, the pieces of equipment, or the lots of stock affected. Their importance in the operation of the business should be ascertained, the way in which the damage has impaired their usefulness should be noted, and, if their appearances do not clearly indicate what should be done to repair or recondition them, arrangements should be planned for any necessary examinations or tests.

Inspection of stocks on hand is sometimes important. An undamaged reserve of finished stock will permit sales to continue while productive facilities are being repaired. On the other hand, a shortage of raw materials

may be the factor limiting the period of the loss rather than the length of time needed to restore the damaged property.

In large properties, important sections may be undamaged. Inspection of these sections will inform the adjuster as to the general condition of the property, its capacity, its use, and its housekeeping.

Date, Time, and Cause of Loss. Inquiry into the date, time, and cause of loss should be made in the same way as when a property loss is being adjusted. It seldom needs to go further.

As part of his inquiry, the adjuster should determine whether the building, equipment, or other property, the destruction or damage of which has caused the interruption of production, sales, or services of the business, is the property described in the policy or a part of it. With two exceptions, the insurer will only be liable for loss of earnings under a business-interruption policy if the loss results from the destruction or damage of the property described in the policy, that is, the buildings, equipment, supplies, or stock that make up the physical risk.

Exception one is when loss results from the order of a civil authority prohibiting access to the premises if the order is given as a direct result of operation in the vicinity of the premises of a peril insured against.

Exception two is when the policy has been endorsed to include the hazard of interruption of power or other service received from a source outside the risk and when there has been an outside interruption of the service caused by a peril insured against.

In some losses, circumstances other than the destruction of, or damage to, the property contribute to the interruption of business and in doing so cause an added amount of loss for which the insurer is not liable. Weather, transportation difficulties, and material shortages are the circumstances most commonly encountered. There were several losses during the New England hurricane in 1938 involving plants carrying windstorm insurance in which the situation was confused because floods that preceded the hurricane washed out bridges, roads, or railroads serving the plants. The plants were then damaged by wind. The loss of business suffered because of the time required to replace the bridges or repair the roads or railroads was not caused by windstorm and, therefore, was not covered by the insurance. Only the loss during the time required to repair the windstorm damage to the property, without taking into account the time required to repair the bridges, roads, or railroads, was covered.

A heavy loss of income was suffered by an interstate fairgrounds organization as a result of the same hurricane. Some damage was done to the buildings, but the fair was held on schedule with practically all its usual space open to the public. The attendance, however, was slim. Many persons who ordinarily visited the fair did not do so, some because of the risky condition of the highways, many of which were obstructed by fallen trees and power lines; others, because there was need for them to stay at home and get their own damaged property in order.

Retail sales are affected by weather conditions. Women shoppers, in particular, avoid going to stores on rainy days. Transportation difficulties and strikes prevent the receiving and shipping of materials and products. Shortages of raw materials, common in the days of World War II, made full operation of the plants using them impossible.

Loss due to order of civil authority prohibiting access to the premises is generally limited to 2 weeks. The adjuster should learn the exact terms of any order issued because of which a loss is claimed.

Approval of Efforts to Resume Operation. Business-interruption forms stipulate:

If the Insured, by resumption of complete or partial operation of the property herein described or by making use of other property, equipment or supplies, could reduce the loss hereunder, such reduction shall be taken into account in arriving at the amount of loss hereunder.

It is incumbent on the insured to do what he reasonably can to reduce his loss, otherwise he will be expected to bear the part of it that he might have averted.

If the damage to the property has been slight, there may be resumption of complete operation with little delay. If the damage has been severe, resumption will generally be a step-by-step process.

Efforts to resume business must be guided by circumstances. If the property has been destroyed and there is reason to believe that business can be resumed and operated at a profit in other quarters, the insured should be aided in acquiring a new location. If the property has been damaged, consideration should be given to temporary repairs, installations, or arrangements to reduce the period of suspension and thereby reduce any decrease of production or sales. Temporary roofs, emergency power lines, rented motors, and the substitution of manpower for disabled

mechanical operations are the usual means to shorten suspension. Sometimes, however, immediate permanent repairs are preferable to temporary work.

While the business-interruption loss and the property loss are covered by separate insurance contracts, they should, if possible, be handled by cooperating adjusters unless they are handled by the same adjuster. Cooperation is particularly necessary at the beginning of the adjustment when it must be decided whether permanent repairs should be made at once or should be preceded by temporary repairs. When permanent repairs are authorized there should be a clear understanding that they are (1) to take the normal course and be paid for at regular prices and wage rates or (2) to be expedited in order to reduce the period of business interruption and, therefore, paid for at premium prices necessary to get quick deliveries of materials and at overtime labor rates for crews working for more than regular hours. The insurers who cover the property will be liable for cost of repairs at regular prices. The insurers who cover business interruption will be liable for the premium, or excess cost of material, and for overtime, to the extent that premium and overtime reduce the insurance loss.

Approval of Expediting Arrangements. Business-interruption forms cover expense incurred for the purpose of reducing loss. For example, the gross-earnings form of 1952 stipulates:

This policy covers such expenses as are necessarily incurred for the purpose of reducing loss under this policy, not exceeding, however, the amount by which the loss under this policy is thereby reduced, and such expenses shall not be subject to the application of the coinsurance clause.

There is no settled practice by which an increase in the cost of operation can always be distinguished from an expense incurred for the purpose of reducing loss. An adjuster whose opinion the author holds in high respect believes that any increased use of facilities in existence at times of loss should be treated as increased cost of operation, but that introduction of new equipment, arrangements, or materials should be treated as expediting expense.

If, after a loss, there seems to be a possibility of reducing it by expenditures for new quarters, extra equipment, special materials, or additional labor, the adjuster, generally acting with technical advisers, should

authorize the insured to expedite the work, with the understanding that expediting expense, to the extent that it reduces loss, is collectible from the insurers.

Choice of Method of Adjustment. In the following situation the circumstances clearly indicate that the adjuster should use the forecast method of adjustment:

1. When the insured wishes to make alterations in the property while doing the repair work necessary to resume full operation
2. When the insured wishes to delay the repairs to suit his convenience, or make them in such a way that the time taken will exceed the time that would be required with the exercise of due diligence and dispatch to complete them

In other situations, the choice of method is generally a matter of speculation. In many, the adjuster has no choice, as the insured will not make claim until the property has been restored and he can account for his experience during the period of restoration.

Preparation for Adjustment. In the majority of small and moderate-sized losses, no special preparation is necessary before discussing figures with the insured and trying to make an adjustment. Ordinarily the adjuster inspects the property, considers the claim, looks at a profit-and-loss statement and the daily, weekly, or monthly record of sales, and offers the figures he is willing to agree upon.

In difficult and large losses, extensive preparation is necessary before the adjuster can discuss the claim intelligently, or make an equitable offer of settlement. Preparation may include any of the following:

1. Development of information as to the period of suspension or of operation at increased cost
2. Examination of the insured's records
3. Market survey
4. Investigation of causes of any loss, other than market conditions, for which the insurer is not liable

The foregoing list is not intended to be all-inclusive. An unusual loss may demand unusual preparation in studies of physical conditions, labor relations, quotas, allocations, regulations of governmental authorities, and other subjects.

Loss Period. Preparation for discussing the time during which loss for which the insurer is liable should cover the circumstances controlling the specific case at hand. The circumstances are usually (1) rebuilding,

repairing, or replacing, (2) availability of raw stock. Occasionally, there are others, such as (3) availability of fuel, power, or transportation, (4) governmental order or regulation, (5) unusual conditions in the environment.

When the period necessary to rebuild, repair, or replace is to be fixed by agreement before restoration is made, the damage should be surveyed and the best method of restoring the property to its full usefulness agreed upon. The length of time necessary to do the work should then be estimated. If the adjuster believes himself competent to estimate the time with a reasonable degree of accuracy, he may prepare to work out an agreement with the insured. In large or otherwise unusual losses, however, he should have the time estimated by a competent builder, engineer, or other expert.

Consideration should be given to the possibility of restoring normal operation in a shorter time than would be necessary to recreate the structures and equipment exactly as they existed before they were destroyed or damaged. Good planning may produce for the insured an improved combination of design and construction that will not only permit speedier resumption of operation than if the old one were restored, but will also make for greater usefulness and reduced cost of operating.

Although business-interruption forms make no reference to the time ordinarily required to adjust the property loss before beginning to restore the property, the behavior of the great majority of policyholders, in the author's opinion, justifies the conclusion that the time required to restore the property includes the time that should be necessary to adjust the property loss under existing conditions. One highly qualified adjuster disagrees with the author. He believes that the time to be added to the actual time necessary to make restoration should be only the time necessary for the insured to make a check of the conditions necessary for finding out what must be done to restore the property, how it must be done, and how he can get it done. Either way of estimating time to be allowed preliminary to beginning the work of rebuilding, repairing, or replacing will produce about the same result.

In serious losses, the restoration of the buildings usually requires more time than any other work necessary to restore operations, as equipment can generally be put in order and raw stock reconditioned or replaced before repairs to the buildings can be completed. A building of ordinary design built of materials readily available can be restored in less time

than an unusual structure containing materials that are difficult to find and that cannot be promptly delivered. Rain, snow, high winds, and extremes of heat or cold retard building work. Any time estimate must give consideration to the season of the year in which restoration is to be made and the weather conditions that are to be expected.

The time required to replace or repair machinery will depend upon the ability of the manufacturers or dealers to deliver new machines or to supply parts, also upon the availability of labor sufficiently skilled to make installations or repairs.

Standard machines that are carried in stock by the manufacturers, sewing machines and motors, for example, can be quickly replaced, and any spare parts needed for repairing them are ordinarily obtainable upon request. Specially made machines, such as steam hammers, machines used for producing paper and linoleum, machines made in foreign countries, and some of the complicated, patented machines, such as linotypes and monotypes, generally require a long time to replace or repair. Occasionally, the maker of a patented machine that has been damaged will be reluctant to supply repair parts.

In one unusual business-interruption claim, a serious loss of production was caused by the destruction of a large, specially made machine that had produced composition shingles, a third of the plant's output. A new machine was promptly ordered, but the adjusters found that the manufacturer was so inadequately equipped that he could produce only two machines in a year and, therefore, could not deliver the needed machine in less than 6 months.

When ore or coal bridges or similar heavy and specially built mechanisms are involved, it is highly important that any drawings or other engineering data relative to the design, workmanship, or operation of the mechanism be located by the adjuster or his technical adviser and made available for study and discussion.

Fixtures and equipment present the same situations as machinery. Typewriters, adding machines, calculators, and other business machines are ordinarily carried in stock and can be replaced promptly, while counters, partitions, shelving, cabinets, and similar fixtures that have been built to order may require considerable time to replace.

Stock is an occasional factor in the period of loss. In manufacturing risks, raw stock and stock in process affect the period; in mercantile risks, the stock in the premises affects it.

When damage necessitates the rebuilding or repairing of buildings or equipment, the loss period ends with the date on which, with the use of due diligence and dispatch, restoration could have been completed, unless (1) operating efficiency had been restored prior to that date, (2) the available supply of raw stock, whether on hand or possible of acquisition, would have forced a shutdown at an earlier date, or (3) replacement of stock in process in manufacturing risks, or of stock on hand in mercantile risks, requires additional time.

Under manufacturing forms, business-interruption loss is limited, in case raw stock is destroyed or damaged, to (1) the time for which the damaged or destroyed raw stock would have made operations possible, or (2) the time required, with the exercise of due diligence and dispatch, to replace or restore the damaged or destroyed raw stock.

The adjuster should inform himself, when handling a loss in a manufacturing risk involving the destruction or damage of raw stock, as to the time the raw stock on hand would have permitted the plant to operate, and also the time required to replace the raw stock, if destroyed, or recondition it for use, if damaged.

If raw stock on hand would have permitted only 90 days' operation, and it was destroyed or damaged and could not be replaced or reconditioned in less than 120 days, the maximum period of loss would be 90 days.

On the other hand, if buildings and machinery could be repaired in 20 days, but all raw stock had been destroyed and none could be had until the end of 30 days, the business-interruption loss would continue for 30 days.

If stock in process of manufacture has been damaged or destroyed, additional time, generally 30 days, is allowed to replace it, or restore it to the same state of manufacture as that existing before loss. The additional time begins with the ending of the period required to restore buildings and machinery to operating condition. If the entire plant must be used to restore the stock in process, the loss during the time will be equivalent to a total suspension; if a part only, to a partial suspension.

Replacement of stock does not ordinarily play a serious part in a manufacturing loss unless it involves raw stock of a seasonal nature, destroyed early in the operating period.

In mercantile losses, however, the buying, assembling, receiving, tagging, marking, and placing in bins, shelves, showcases, or on counters of the various lots of merchandise may be a time-taking process.

When the loss period is to be fixed by the actual time taken in restoring the property, little checking of it is done in ordinary losses of moderate size. But when a serious loss is being adjusted by the workout method, the adjuster should generally employ a builder or engineer to keep in touch with the work of restoration and should instruct him to suggest to the insured at any time how the speed of the work can be increased. When the period is to be fixed by the time actually taken in making replacements or repairs, the adjuster and his builder or engineer should make prompt surveys of any damaged structures or equipment, determine what structures or equipment will control the period of the loss, and urge the insured to order promptly the materials necessary for replacement or the parts needed to make repairs.

If the situation warrants it, the insured should be asked to send his purchasing agent to buy the necessary materials or articles, possibly following him by a representative to expedite delivery.

If the insured is a person of integrity and ability, the actual replacement or repair of the property will fix with accuracy the period of the loss, unless delays occur from causes for which the insurer is not liable, and circumstances make it difficult to determine what part of the time should be charged to these delays.

Examination of Records. Records are examined for the experience of the business before the loss and, when a loss is being adjusted by the workout method, for the experience during the workout period, sometimes even afterward.

In minor losses, the adjuster seldom does more than look at the last profit-and-loss account, the monthly record of sales, and the accounts showing the expenses. In serious losses, all records are given a thorough examination. The assistance of an accountant is advisable on most of the larger losses.

Records, as considered by the adjuster, may roughly be classed as financial, property, quantity, operating, and statistical. They include books of account, inventories, production records, cost accounts, orders on hand, contracts, and budgets. No attempt is made to enumerate all of them.

Entries made before a loss in the books of account register the income and expenses that determine the past operating profit or loss of the business. The daily, weekly, or monthly entries for a given period will, if compared with those of comparable previous periods, show the trends of

the business. Forecasts of probable experience are, in many instances, based upon the trend of the business before the loss, as shown by the records, and modified according to the prospects of future supply, demand, and cost of operation.

Entries made after the loss will show expenses actually paid and, if suspension of business has not been total, also income received, increase or decrease of inventories, and profit or loss.

Inventories, physical or perpetual, will show by comparison, when those of different dates are available, whether materials or finished goods on hand increased or decreased in quantity or value between inventory dates.

Production records for periods prior to a loss can be compared with those for the period after the loss to show whether there has been a loss in unit volume.

Cost accounts are summaries of experience in past periods and are sometimes useful in estimating the cost of future production.

Budgets show the insured's expectations at dates of preparation and are to be considered when forecasts are being made.

Orders on hand or contracts under which the insured is producing are indications of probable experience. Forecasts should be checked against productive capacity, materials, and labor available.

During periods of government or trade allocations or quotas, records covering either are highly important.

The insured cannot be required to produce his income-tax returns for examination. In many instances, however, he will produce them on his own initiative or upon being asked to do so. In asking for them, the adjuster should make it clear that he is not demanding them and that the insured is under no obligation to produce them.

Survey of Market Conditions. In losses involving large amounts based on future sales, it is advisable to make a survey of market conditions before estimating the probable experience of the business had no loss occurred. In stable periods, the survey seldom needs to go further than the market pages of the daily papers. Often, an inquiry directed to a single well-informed person or organization suffices. In periods of change, however, the survey may require the examination of trade papers, market statistics, published reports of corporations in the same line of business, and consultation with persons of recognized authority.

In some instances, the adjuster can make an effective survey, in others,

particularly when insured and adjuster are in serious disagreement, a survey made by an expert will carry more weight.

The general objectives of a survey are to collect and present the facts and authoritative opinions that will indicate whether it is probable that, during the period covered by the claim,

1. The insured would sell or be justified in producing for sale, as many units of stock as the number on which claim is based and would receive for them the prices claimed
2. Sufficient materials and labor would be available to support the rate of operation, in case of manufacturing, or sufficient stock available to support the rate of selling, in case of merchandising
3. Prices and costs in the period would tend to be what the insured claims.

Summaries and forecasts of general conditions are made by industrial engineers, business consultants, other specialists, and business bureaus. Many are printed, distributed, and quoted from in the daily newspapers. Trade papers and magazines print similar information for the various trades and industries. The federal government prints reports reflecting market prospects. Among these are estimates of acreages of grain, cotton, and tobacco planted, reports of crop prospects or yields, reports of merchandise imported, and reports showing inventories of the more important commodities. The Federal Reserve Banks issue reports on sales and inventories of various kinds of businesses in their respective districts.

The possession of a properly made survey will increase the adjuster's information on probabilities, and it can often be used most effectively with the insured, particularly if it shows the sales, inventories, or volume of production of other organizations in the same industry.

Audit or Development of Claim. Although business interruption insurance has been written for some 75 years and the forms have been revised from time to time as problems of coverage and adjustment became better understood, underwriters have never tried to incorporate in them any specific requirements with which the insured must comply in case of loss. There is a general statement in current forms that, whether for the purpose of ascertaining the amount of loss sustained or for the application of the contribution clause, due consideration shall be given to the experience of the business before the loss and the probable experience thereafter, had no such loss occurred.

In the absence of specific requirements, business-interruption losses are

adjusted in the same general way as are losses under policies covering real or personal property. In some instances, claims are prepared in varying degrees of detail and presented to the adjusters. In others, no formal claim is made, as the insured invites the adjuster to discuss the situation, opens the books to him for examination, and tries to agree upon the amount for which the insurer is liable.

The amount of the insurer's liability under any business-interruption policy containing a contribution clause will be determined by the following factors:

1. The business-interruption value
2. The amount of loss sustained
3. The amount of any expense that has reduced the loss under the policy
4. Other insurance

In support of the first three factors, adjusters expect the insured to show from entries in his books, orders in hand, or the opinions of market observers that the figures he is willing to agree upon are reasonable. In support of the last, policies or binders are expected to be tendered for examination.

The work of auditing or developing a claim calls for (1) consideration by the adjuster of figures presented by the insured and the circumstances of the loss and (2) agreement upon a business-interruption value and an amount of loss that are probable in the light of past experience and the future prospects that existed when the loss occurred, or of the actual experience after the loss. Expense incurred to reduce loss is generally a matter of record. The amount by which the loss was reduced is, however, often a matter of estimate.

Experience before the loss is generally accepted as the best guide to probable experience, had no loss occurred. But it is not always so. A plant that has been running at less than capacity may unexpectedly pick up a large order that will make its future more promising than its past indicates. On the other hand, a plant that has been running at capacity may experience a sudden loss of business due to a decrease in demand for its product.

Business-interruption Value. Ordinarily, a business-interruption loss is adjusted within a short time after the casualty. When such is the case, the business-interruption value will be fixed by agreement between the insured and the adjuster following their consideration of the earnings of

the business for the 12 months before the loss and the probable earnings for the 12 months after date of loss, had the loss not occurred. The only business records available will be those covering operations prior to the loss. Occasionally, however, adjustment will be delayed, and the 12 months after the loss will go by before it is disposed of. In this case, the actual experience of the business after the loss will be available. By modifying the actual experience to allow for handicaps imposed by the aftereffect of the loss, for additions to capacity installed or brought into operation, or for reductions due to causes other than the casualty, a reasonable agreement should be possible.

Business-interruption value is generally estimated and agreed upon after making an examination of the latest profit-and-loss account, and the sales record for the 24 months before the loss, sometimes after making or getting a survey of market conditions.

A profit-and-loss account for the year, or last fiscal period, preceding the loss will show the experience of the business before the loss, its sales, costs, profit made, or loss sustained.

A word of caution is advisable in connection with any profit-and-loss statement based on the inventory of stock made after the loss for the purpose of adjusting the property loss. Self-interest will lead the insured to include in such an inventory all of the damaged stock in order to increase the claim, and omit the undamaged stock, which, if included, would increase the sound value and reduce his insurance collection because of coinsurance or contribution requirements. In making such an inventory, the insured's tendency is to put high values on badly damaged stock and low values on sound or slightly damaged stock, thereby producing an inventory that shows a high percentage of damage, tending to increase the claim, and a higher value than a normal inventory taken on the same date would have shown, had no loss occurred. If, therefore, a profit-and-loss statement uses it as a closing inventory, it will, because it is disproportionately high in proportion to the opening inventory, make the account show a higher than actual profit.

The regular profit-and-loss account for the last fiscal or calendar year is, in many cases, a more reliable guide to the experience of the business before the loss. The inventories used in making the account are generally on a comparable basis.

The month-to-month record of sales for the 24 months before the loss will show whether the trend of sales was upward or downward. In most

losses, the business-interruption value is estimated by making up a probable profit-and-loss account for the 12 months after the loss, showing as sales for the period the sales for the 12 months before the loss, increased or decreased by the percentage by which those sales exceeded or fell short of the sales of the preceding 12 months.

In some instances, the experience for the 12 months before the loss will not indicate the probable experience, had there been no loss. If the rate of operating or selling has changed during the period, if orders in hand have materially increased or decreased, if the physical arrangements of the premises have been changed, or if the insured has raised or lowered his prices, a better estimate of future sales can be made from the sales figures of the 3 or 4 months before the loss than from those of the full year preceding it.

Any experience before the loss should be considered in the light of general business conditions before being accepted as the best guide to probable future experience. In periods of business change, general market conditions are sometimes better indications of the insured's future prospects than is his business record. Sometimes, prospective changes are indicated by happenings in the business itself. In some instances, an increased wage scale, reducing profits, will have been agreed upon by the insured prior to the loss, to become effective within the year after the loss. In others, he will have made new contracts for materials at prices above or below those current at the time of the loss. An inquiry into special conditions affecting the insured's future, or a market survey of general conditions affecting the future of his and all similar businesses, is at times advisable.

In connection with new businesses that have no past experience, or businesses that have radically changed their methods of operation, the best forecast of earnings for the 12 months following date of any loss will be one based on market demand, productive capacity, contracts and orders in hand, and material and labor available.

Under Item I of the standard two-item form, the business-interruption value is specified as

the sum of the annual net profits and the annual amount of all charges and other expenses of any nature whether continuing or not (except the expense of heat, light and power to the extent that such expense does not continue under contract and the insured's entire ordinary payroll expense) that would have been earned

(had no loss occurred) during the twelve months immediately following date of loss.

This sum can be determined by one of two methods:

1. By deducting from the sales value of the production, or the net sales to be made during the 12 months,

- a. Cost of materials
- b. Ordinary payroll expense, and
- c. The cost of heat, light, and power to the extent that it does not continue under contract in case of suspension of business, or

2. By listing the net profit and all the charges and expenses that would have been earned except those excluded by the stipulations of the clause

Correct statements made by either method will give the same answer.

As illustrations, a profit-and-loss account and the business-interruption value computed from it by each of the two methods, follow.

A. B. C. WIRE MANUFACTURING COMPANY

PROFIT AND LOSS ACCOUNT

January 1–December 31, 1951

Sales, less returns and allowances		\$627,058
Cash discounts on sales		<u>3,131</u>
Net sales		\$623,927
Cost of goods sold:		
Inventory, Dec. 31, 1950	\$ 90,963	
Purchases	\$170,921	
Freight in	<u>859</u>	
	\$171,780	
Cash discounts on purchases	1,751	<u>170,029</u>
		\$260,992
Inventory, Dec. 31, 1951		<u>130,359</u>
Materials consumed		\$130,633
Direct and indirect labor:		
Supervisor	\$ 10,000	
Foreman	15,464	
Ordinary payroll	<u>235,864</u>	<u>261,328</u>
		\$391,961
Manufacturing expense:		
Power and light	\$ 5,415	
Fuel	4,750	
Real-estate taxes	<u>3,671</u>	
Repair material, looms	11,166	

Forward.....		\$391,961	\$623,927
Same, building, other machinery....	3,730		
Insurance....	1,578		
Depreciation, buildings and machinery..	8,508		
Wire-drawing supplies.....	5,820		
General supplies..	8,717		
Compensation insurance	3,925		
Payroll taxes.....	8,013	65,293	457,254
Gross profit.....			\$166,673
Administrative expenses:			
Salaries, officers..	\$ 25,090		
Salaries, office employees..	13,073		
Legal and accounting fees..	3,300		
Office supplies.....	1,668		
Telephone and telegraph..	1,688		
Subscriptions and dues..	2,960		
Payroll taxes.....	358		
State and local taxes..	2,564		
Office equipment..	257		
Premiums, life insurance, officers....	128		
Provision for bad debts.....	1,567	\$ 52,653	
Selling expenses:			
Commissions.....	27,137		
Salaries, salesmen..	6,546		
Traveling.....	5,674		
Advertising.....	1,092		
Entertainment....	1,583		
Auto expense, salesmen	916		
Salaries, delivery employees	4,827		
Freight and express out.	12,140		
Packing and shipping supplies..	11,878		
Depreciation and expenses, truck	369		
Payroll taxes.....	313	72,475	125,128
Operating profit..			\$ 41,545
Other income:*			
Interest income.....	\$ 717		
Dividend income....	510		
Other income....	2,734		3,961
			\$ 45,506
Other expense:			
Interest expense†...			2,071
Net profit before income taxes.			\$ 43,435

* Other income shown was received from investments that are in no way connected with the factory or its operation.

† Interest expense shown was incurred by borrowing needed cash from banks.

BUSINESS-INTERRUPTION VALUE

Computed by Method 1

Sales, less returns and allowances.			\$627,058
Cash discounts on sales	\$	3,131	
Commissions		27,137	
Freight and express out		12,140	
Provision for bad debts		<u>1,567</u>	43,975
Net sales.			<u>\$583,083</u>
Materials consumed:			
Raw materials.	\$130,633		
Packing and shipping supplies.	<u>11,878</u>	\$142,511	
Heat, light, and power:			
Power and light	\$	5,415	
Fuel.	<u>4,750</u>	10,165	
Entire ordinary payroll expense:			
Ordinary payroll	\$235,864		
Compensation insurance.	3,925		
Payroll taxes	<u>8,013</u>	247,802	400,478
Business-interruption value			<u>\$182,605</u>

BUSINESS-INTERRUPTION VALUE

Computed by Method 2

Net profit:

Operating profit	\$ 41,545
Less, interest expense	2,071
	<u>\$ 39,474</u>

Charges and expenses earned:

Manufacturing:

Supervisor	\$ 10,000
Foremen	15,464
Real-estate taxes	3,671
Repair materials, looms	11,166
Same, buildings and other machinery	3,730
Insurance	1,578
Depreciation, buildings and machinery	8,508
Wire-drawing supplies	5,820
General supplies	8,717
	<u>\$ 68,654</u>

Administrative:

Salaries of officers	\$ 25,090
Salaries, office employees	13,073
Legal and accounting fees	3,300
Office supplies	1,668
Telephone and telegraph	1,688
Subscriptions and dues	2,960
Payroll taxes	358
State and local taxes	2,564
Office equipment	257
Premiums, life insurance, officers	128
	<u>51,086</u>

Selling:

Salaries, salesmen	\$ 6,546
Traveling	5,674
Advertising	1,092
Entertainment	1,583
Auto expense, salesmen	916
Salaries, delivery employees	4,827
Depreciation, expenses, truck	369
Payroll taxes	313
	<u>21,320</u>

Other

Interest expense	\$ 2,071	2,071	143,131
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Business-interruption value \$182,605

The author uses method 1. It is simpler. It shows in one amount the yearly earnings of the business according to the language of the contribution clause and concentrates attention upon earnings instead of profits and charges. When it is used, it is easy to spot in the profit-and-loss account the relatively few costs and expenses that may be deducted from the sales, and the remainder can be accepted with certainty as the business-interruption value for the period.

Method 2 requires that there be picked out of the profit-and-loss account a relatively large number of entries, with a possibility of overlooking one or more. The best way of checking the accuracy of any business-interruption value produced by using method 2 is to compare it with the figure produced by using method 1.

Under a policy covering gross earnings, the business-interruption value should be computed according to the definition of the term "gross earnings" and the stipulation of the contribution clause. The definition in the manufacturing form reads:

For the purposes of this insurance "gross earnings" are defined as the total sales value of production through use of the property herein described, less the cost of all "raw stock" from which such production is derived.

The contribution clause stipulates:

In consideration of the premium charged and form under which this policy is written this Company shall not be liable, in event of loss, for a greater proportion thereof than the amount hereby covered bears to . . . % of the "gross earnings" that would have been earned (had no loss occurred) during the twelve months immediately following the date of damage to or destruction of property herein described.

Using the same profit-and-loss account, the business-interruption value under a policy covering gross earnings would be:

Sales	\$583,083
Less cost of raw materials	<u>130,633</u>
Business-interruption value	\$452,453

Ordinary Payroll Expense. Under Item II of a standard two-item form, the sum to be set up as determining the amount of insurance required by the contribution clause is prescribed as follows:

The insured's entire ordinary payroll expense, excluding only salaries included in Item I, that would have been earned (had no loss occurred) during the ninety consecutive days immediately following date of loss.¹

The amount is determined by reviewing the payroll record before the casualty and agreeing upon the amount of payroll that would have been earned during the 90 consecutive days immediately following the casualty. As part of "ordinary payroll expense," social-security, unemployment, and any other payroll taxes are added, as is also the premium for compensation insurance.

In the monthly figures of the business covered by the profit-and-loss account shown on pages 510-511, the details of ordinary payroll expense for the first 90 days of 1951 are:

	<i>Ordinary payroll</i>	<i>Payroll taxes</i>	<i>Compensation insurance</i>	<i>Total</i>
January.....	\$18,445	\$ 737.79	\$276.67	\$19,459.46
February.....	27,667	1,106.67	415.00	29,188.67
March.....	15,371	614 83	230.56	16,216.39
Totals.....	\$61,483	\$2,459.29	\$922 23	\$64,864.52

For those 90 days the sum to be set up as determining the amount of insurance required by the contribution clause under Item II of the form is \$64,864.52.

Ordinary Payroll Losses. Relatively few policyholders carry insurance under Item II of the two-item form. Consequently, there are not many claims for ordinary payroll losses. The author has handled less than a dozen. He has had two under gross-earnings forms. None has presented any difficulties.

The language of the form as to the amount of insurance to be carried under Item II is clear.

The intent of what losses should be paid is also clear. The question of which employees on the insured's ordinary payroll should be retained in case of suspension is a matter of judgment and subject to adjustment. In some instances, the insured is bound by union rules. If operations during

¹ Occasionally, the 90-day period is extended by endorsement.

any partial suspension do not return enough to cover the wages of the ordinary payroll employees who must be retained, the amount of payroll not earned is collectible out of Item II.

There are no decisions bearing on the liability of an insurer under the item.

Accounting Details. Adjusters agree upon most of the details of accounting for business-interruption value. Discussion of their disagreements will be limited to those arising under standard two-item forms. Under Item I of such forms, the liability of the insurer is fixed by the terms of the contribution clause as the proportion of the loss that the amount of the insurance bears to the stipulated percentage of the sum of the annual net profits and the annual amount of all charges and other expenses, whether continuing or not, that would have been earned in the 12 months following loss, except heat, light, and power and ordinary payroll expense.

The words, "all charges and other expenses, whether continuing or not," indicate an intent to include any charge or expense that has the possibility of continuing during a total or partial suspension of the business and, therefore, of causing the insured to suffer loss.

Expenditures that never continue—those for materials and supplies being the most important—are treated by adjusters as costs. If business is suspended, there is no need to buy materials and supplies. If any must be received because bought on contract, they can be stored and used later, or they can be sold.

There is some diversity of opinion among adjusters as to several frequently encountered expenditures, some adjusters treating them as costs and, therefore, not to be included in business-interruption value, others treating them as charges or expenses and including them.

Common examples are (1) outgoing freight not charged to the purchaser, (2) sales taxes, tax tags, and tax stamps, and (3) commissions. Some adjusters treat these items as charges and expenses earned by the business and, by doing so, increase the business-interruption value.

The author believes that, except as to salesmen's commissions, they should be treated as costs and shown in the accounting for business-interruption value as reducing the amount received, or to be received, from the sale of goods. The expenditures are made only when sales are made; they can never be lost and, therefore, whether treated as costs or as expenses, can never be the subject of claim under the policy.

Commissions paid to outsiders are normally treated as costs. If there are no sales, no commissions are paid out. Salesmen, however, are often compensated on a commission basis but are closely attached to the business and essential to its success. They are, in such instances, key employees, and their prospective commissions should be treated in the same way as the salaries of other keymen. In case of suspension of business, they will be paid according to their normal earnings in order to hold them.

In manufacturing losses, the cost of materials consumed is limited by some adjusters to the cost of raw materials, while others include manufacturing and shipping supplies. The author believes such supplies should be treated as costs. Expenditure for raw materials can never become the subject of claim, nor can expenditure for supplies.

Some adjusters do not treat the salaries paid to the rank and file of office employees as ordinary payroll expense. The author is not in agreement with them.

Write-off of bad debts means failure to receive the amount written off. Ordinarily the write-off is an insignificant figure in the profit-and-loss account. The author believes it should be treated as reducing the income from sales like a sales discount or allowance, though some adjusters believe it is a charge or expense entering into business-interruption value.

Actual Loss Sustained. As used in the standard two-item form, the term, "actual loss sustained," is intended to mean the loss of net profit the insured will sustain, plus the amount he will have to pay out of pocket because of the charges and expenses to be met while his business is suspended, less any expense he can save. The result will be the reduction of his earnings. The reduction must be the result of a total or partial suspension of business caused by the destruction of, or damage to, the property described in the policy by a peril insured against, or by reason of an order of civil authority prohibiting access to the premises under conditions specified in the form.

An exact determination of actual loss sustained would require exact knowledge of what the insured would have earned, had there been no casualty, as well as of what he did earn after it occurred. It is often possible to be sure that after the casualty the insured earned nothing, or earned a definite sum of money, but what he would have earned if there had been no casualty is almost always a matter of speculation. In most instances, however, it can be reasonably approximated.

In practice, adjusters treat with actual loss sustained on the basis of (1) sales lost and (2) sales made at increased cost. On sales lost, the full amount of the earnings that would have been made are lost with the sales unless there is some saving on expense. On sales made at increased cost, the earnings lost are measured by the increased cost.

Expense incurred for the purpose of reducing the loss under the policy is not treated as actual loss sustained but as a separate subject of insurance because of its freedom from contribution requirements.

Sales Lost. When a manufacturing or mercantile risk is destroyed and the manufacturer or merchant has no other plant or store to which he can transfer his business, or cannot continue it, if a manufacturer, by using the facilities of friendly competitors, there will be a total suspension of business. All sales that would have been made from the use of the property from the time the risk was destroyed until it is rebuilt will be lost. In such a situation, the actual loss sustained by the merchant or manufacturer will be the net profit he would have made, plus the continuing charges that he would have paid out of his earnings on the sales. Another way of stating it is to say that he will lose the amount he would have received from the sales, less what he will not have to spend because he is not producing or operating.

Loss of sales may begin immediately after the destruction of the property, or may not begin until some future date. If a retail store, or a manufacturing risk that has no reserve of finished stock, is destroyed, loss of sales will begin at once. If, however, a manufacturing plant carries a reserve of finished stock in a warehouse or other premises that escape destruction, there may be no loss of sales for several weeks following the casualty. If a plant produces in one season and sells in another, its destruction during the producing season will cause a loss of sales beginning with the selling season.

Loss of sales, caused by interruption of the business for which the insurer is liable, is covered, even if the sales lost would not, in the due course of the business, have been made during the period when the property was disabled.

When a loss is to be adjusted by the forecast method, the information ordinarily considered by adjusters as indicating the probable dollar volume of sales that will be lost includes the daily, weekly, or monthly record of sales before the loss, contracts, orders in hand at date of loss,

and, sometimes, inquiries. Occasionally, a market survey is in order. All of this information has been discussed in the preceding section on business-interruption value.

When a loss is being adjusted by the workout method and there has been a loss of sales during the period of restoration, or a loss of production during the period that will be registered at a later date by a loss of sales, the information indicating probable dollar volume of sales that would have been made had the loss not occurred will be the same as that listed in the preceding paragraph. If, however, the loss involves a manufacturing plant, it is necessary to consider what the plant would have produced during the period. Information indicating probable unit production includes production records, plant capacity, and labor available. From what would probably have been sold or produced there will be deducted what was actually sold or produced. The remainder will be the immediate or future sales loss, except in those situations when the insured can, in one way or another, make up the lost production in time to meet his sales demand.

Ordinarily it is agreed that the loss of sales shall be determined by setting up the dollar value of the sales, or salable production, that would probably have been made during the period when the property was being restored, and deducting the dollar value of the actual sales, or the actual production during the period, as the case may be. In setting up probable sales or production, the conventional procedure is to set up the sales or production for the same months in the year preceding the loss, and increase or decrease them according to the trend shown by the monthly records of the business. This procedure, however, is not in order when market changes or other factors indicate a change of trend.

When, as a result of damage to a risk, there is a total or partial suspension of business, the accepted practice under the forecast method is to estimate and agree upon the dollar volume of sales that will be lost for the days, weeks, or months during the period necessary to restore the property; or, under the workout method, after operations have been restored, to examine the records of the business and make an agreement based on what they show. Business may be totally suspended for a week, may be running at half capacity the next week, at three-fourths the following week, and thereafter at full capacity.

In any manufacturing plant, maximum productive capacity is deter-

mined by equipment, arrangement, space, and labor available. If, in connection with a busy plant, claim is made for increased future production, inquiry should be directed into the capacity of the plant.

In connection with new businesses that have no history, probable experience is indicated by such circumstances as capacity, orders in hand, and market prospects.

When a plant is working on a quota and cannot sell more in a year or other given period than the number of units allotted to it for production, and production is interrupted but later resumed, there will ordinarily be no loss of sales. Its loss will, therefore, be the increased expense of operating.

Following a short interruption of business, it may be impossible to determine whether there has been or will be any loss of sales; the shorter the interruption, the harder it is.

Loss According to Sales Lost. Because in the past business-interruption policies were written under per diem forms, many policyholders and producers still think that business-interruption losses are to be computed by dividing the total of the profits and charges that the business would earn in a year by the number of working days in the year, generally 250, and multiplying the result by the number of days that the business will be or has been totally suspended. The language used in Item I of a standard two-item form lays stress on profits and charges in a manner that tends to emphasize their relation to time rather than to the sales that the insured must make in order to earn them. As a consequence, many claimants under present-day contribution forms will be puzzled when the adjuster stresses the dollar volume of sales lost instead of the daily or weekly average of net profit and fixed charges.

A real understanding of the measure of loss under Item I of a standard manufacturing form will be made easy for a claimant if the adjuster explains to him that his loss is that part of the income on the lost sales out of which he would have paid his fixed charges and made his profit. In other words, it is the margin in the lost sales dollar over the cost of the material, direct labor, and variable overhead. Because the insurance covers this margin, the amount of insurance collectible in case of loss depends upon the dollar volume of sales lost and any reduction that can be made in expense. The amount follows the ups and downs of the sales and, therefore, when contribution requirements are fulfilled, gives the insured protection during peak periods when sales exceed daily or weekly

averages, while during low periods, when sales are less than average, no more is collectible than the amount that would have been received as margin had the sales actually been made.

Assume that the selling price, costs, and margin over costs of a manufacturer producing a household appliance are as follows:

Selling price	\$10
Material	\$5
Labor	2
Heat, light, and power	1 8
Margin over cost	\$ 2

If the business of the manufacturer should be suspended and his sales interrupted, he would lose at most \$2 for each appliance he was prevented from selling. If he could reduce expense, he would lose less. He would fail to receive the \$10 that the purchaser would have paid for the appliance, but he would not spend the \$8 that it would cost to produce it.

A study of his books might show that, of the \$2 margin, \$1.25 went to pay administrative and selling expenses, and \$0.75 was left over as profit before income taxes. The administrative expenses would continue during the suspension. The selling expenses would discontinue. In such a situation the manufacturer's loss for each appliance he was prevented from selling would be properly accounted for as follows:

Margin over cost	\$2 00	<i>Continuing</i>
Administrative expense	\$1 00	\$1 00
Selling expense	0.25	1 25
Net profit, before income tax	\$0.75	0.75
Loss—net profit and continuing expense		\$1 75

If the suspension covered a month during which 10,000 appliances would have been sold, the business-interruption loss would be 10,000 times \$1.75, or \$17,500. If in a month when 2,500 would have been sold, it would be 2,500 times \$1.75, or \$4,375.

Expressed as a percentage of selling price, the rate of loss would be $\frac{\$1.75}{\$10.00}$ or 17.5 per cent of sales lost.

	Quantity	Price	Sales	Rate	Loss
High month	10,000	\$10	\$100,000	17.5%	\$17,500
Low month.	2,500	\$10	25,000	17.5%	\$ 4,375

If the loss involved the month when 10,000 appliances would have been sold, the amount of \$17,500 to be paid by the business interruption insurance would compare with what the business would have done, had there been no interruption as follows:

Sales.....	\$100,000
Materials.....	\$50,000
Labor.....	20,000
Heat, light, power.....	10,000
	<u>80,000</u>
Margin earned for month.....	\$ 20,000
Selling expenses for month, 10,000 appliances at 25¢	2,500
	<u>\$ 17,500</u>
Available for charges and profit.....	

The insured should accept the offer of \$17,500 and be glad to do so.

If the loss involved the month when 2,500 appliances would have been sold, the amount of \$4,375 to be paid by the business interruption insurance would compare with what the business would have done, had there been no interruption as follows:

Sales.....	\$25,000
Material.....	\$12,500
Labor.....	5,000
Heat, light, power.....	2,500
	<u>20,000</u>
Margin earned for month.....	\$ 5,000
Selling expenses for month, 2,500 appliances @ 25¢.....	625
	<u>\$ 4,375</u>
Available for charges and profit.....	

The adjuster offering the insured \$4,375 might be given the answer that salaries, rent, and other fixed overhead for each month in the year averaged \$5,000, and that the net profit averaged \$2,500, making a total of \$7,500. If only \$4,375 insurance money was to be collected, the insured would suffer a deficit of \$3,125 on the month's operations.

The answer to the insured should be that, if there had been no interruption of business, his accounts for the month would have shown the same deficit:

Sales.....	\$25,000
Material.....	\$12,500
Labor.....	5,000
Heat, light, power.....	2,500
	<u>20,000</u>
Margin earned for month.....	\$ 5,000

Average per month of salaries, rent, and other fixed overhead.	\$ 5,000
Average per month of net profit	2,500
	<u>\$ 7,500</u>
Less margin earned for month, as above.	5,000
Deficit before selling	\$ 2,500
Selling expenses for month, 2,500 appliances @ 25¢	625
Deficit for month	<u>\$ 3,125</u>

It is thus clear that, by paying the insured \$4,375, his policy is doing for him what his business would have done had it not been suspended.

Sales Made at Increased Cost. In some instances the actual loss sustained by the insured will be the increased cost of producing or selling. There will be no reduction in the unit volume of sales, but each unit will cost more than if there had been no casualty, and the net profit for the period of the suspension will be reduced by the amount of the increase in the cost.

In losses of this kind, the situation is sometimes complicated by inability to determine exactly how many units would have been produced or sold had there been no casualty. In this case, the number of units becomes a matter of opinion and must be fixed by agreement.

If, following a casualty, operations are resumed, the cost of the sales made after the casualty must be determined and contrasted with what would have been their cost had they been made in the normal operation of the premises had there been no casualty. The loss on such sales will be the increased cost of producing them, not exceeding what would have been the insurable margin on the sales in normal operations.

Assume, for example, that the insured's normal operations showed the following:

Sales	\$10,000	
Cost of sales:		
Materials consumed	\$6,000	
Direct labor	1,500	
Variable overhead	750	8,250
Margin		<u>\$ 1,750</u>

The insurable margin of his sales would be

$$\frac{\$1,750}{\$10,000} \text{ or } 17.5 \text{ cents per sales dollar}$$

If his operations after the casualty resulted in an increased cost per sales dollar of 10 cents, he could claim the 10 cents under his business inter-

ruption insurance. But, if the increased cost was 20 cents, he could claim only the 17.5 cents that he would have made, had no casualty occurred.

Caution. An effort to short-cut the computation of a partial suspension loss, being adjusted by the workout method, by multiplying the loss of sales by the insurable margin that existed in the sales dollar before the loss, may result in a serious understatement of the loss. The reason is that the insurable margin in the sales after the loss may be much less than in those before, because of increased costs of producing or selling due to the loss. An equitable adjustment under the workout method of a partial suspension loss can be made only by setting up a projected profit-and-loss account for the period of the suspension and comparing its showing with an actual profit-and-loss account for the same period, giving consideration to any factors, other than the casualty, that may have affected the showing of the actual account.

Net Profit and Continuing Charges and Expenses. The words used to state the measure of loss in Item I of the two-item standard form are:

- (a) the net profit which is thereby prevented from being earned and
- (b) such charges and other expenses including salaries of officers, executives, department managers, employees under contract and other competent employees, as must necessarily continue during a total or partial suspension of business, to the extent only that such charges and expenses would have been earned had no loss occurred.

What was said in the preceding section on the subject of the margin between the cost of goods and their selling price is illustrative of what the quoted language of the form means. In that section there was set up the simple example:

Selling price	\$10 00	
Material	\$5 00	
Labor	2 00	
Heat, light, power	1.00	8 00
Margin over cost	\$ 2.00	<i>Continuing</i>
Administrative expense	\$1 00	\$1 00
Selling expense	0.25	1.25
Net profit before income tax	\$ 0.75	0.75
Total, net profit and continuing charges and expenses		\$1.75
Total, \$1.75		
Selling price, \$10.00 or 0.175		

For each \$1.00 of sales lost, the insured will lose \$0.175.

The figures on page 526 were prepared in the adjustment of a business-interruption loss. They contain a number of items, go into much detail, but follow exactly the outline of the simple example just stated.

“Net profit” is ordinarily shown in a profit-and-loss account as the amount remaining after all charges and expenses, except income taxes, have been deducted from the gross profit.

Charges and other expenses, including salaries of officers, executives, department managers, employees under contract, and other important employees, that must necessarily continue during a total or partial suspension of business include the following:

Advertising under contract that requires stipulated payments even though the business may be totally suspended by a peril insured against.

Amortization, if the insured purchases or improves property used in his operations and amortizes his expenditures over a period of years. If he does, he is really allocating to each year a part of his net profit that he will use to repay himself for what he expended. In any statement of a business-interruption loss, amortization may properly appear as a continuing charge, or it may disappear as a charge and be included in the net-profit item.

Charge for credit information secured on the basis of a minimum payment for reports, not exceeding a certain number, the minimum payment covering a definite period of time, whether or not the business operates.

Depreciation, provided the depreciation shown in the profit-and-loss account is an accurate estimate of the wear and tear of the property described in the business-interruption contract, plus any decrease in its value due to obsolescence. The amount of depreciation shown in the account may properly be treated in the case of loss as a continuing charge, and if half of the property should be destroyed half of the charge would be ended and half would continue. But in accounting practice, depreciation is often an arbitrary write-off of a part of gross profit, generally the largest write-off that the income-tax authorities will permit. Consequently, in the computation of a business-interruption loss, an adjustment of the depreciation entry in the profit-and-loss account to the actual depreciation experienced by the property may be necessary. If actual depreciation is less than the amount written off as depreciation, the excess should be added to net profit.

EXPERIENCE BEFORE LOSS 3 MONTHS AND 20 DAYS

Sales:

*Continuing
charges*

Gross sales	\$96,624 56	
Less, freight out and discounts	<u>1,739.04</u>	
Net sales		\$94,885 52
Cost of sales:		
Inventory, Dec. 1, 1951	\$75,349 67	
Purchases	<u>12,390.17</u>	
	\$87,739.84	
Less, inventory Mar. 20, 1952	<u>42,142.91</u>	
Cost of materials used	\$45,596 93	
Labor	6,849 55	\$ 510.00
Insurance	287 40	143 70
Social-security taxes	184 40	15.30
Freight and cartage out	292 11	
Repairs and Supplies	119 76	
Automobile expense	148 26	
Fuel	63 03	
Power and light	51 27	17 09
Rent	1,135 06	408 00
Water	12 00	12.00
Depreciation	193 86	193 86
Amortization of improvements to leased building	142 40	142 40
Miscellaneous	<u>75 79</u>	<u>55,151.82</u>
Gross profit		\$39,733.70
Selling and administrative expenses:		
Salaries	\$ 1,536.60	1,536.60
Traveling expenses	50.00	
Telephone and telegraph	94.21	47.10
Postage	11.03	5 56
Legal and professional	75 00	75.00
Advertising	25.00	25.00
Stationery	20.39	
Commissions	<u>477.26</u>	<u>2,289 49</u>
Net profit		\$37,444 21
		<u>37,444 21</u>
Total of net profit and continuing charges		\$40,575.82
	Total, \$40,575.82	
	Net sales, \$94,885.52 = 0.427	

For each \$1.00 of sales lost, the insured will lose \$0.427. This is an unusually high figure; the merchandise involved was imported in relatively small volume.

Donations made regularly.

Insurance premiums regularly paid on all kinds of insurance, except that, in some territories, premiums paid for business interruption insurance are not included.

Interest on bills payable, including interest on bank loans or loans from others.

Legal retainers covering periods of time.

Prepaid expense, such as specific advertising for a sales campaign, apportioned to sales reasonably expected.

Rent that does not abate.

Royalties that must be paid whether or not there are sales or production.

Salaries of employees under long-term contracts or employees who are too valuable to lose are properly continuing charges during a period of suspension if the employees are kept functioning in their positions or are sent home to remain idle until resumption of business. If, however, they can be transferred to other work for which they will be compensated without reducing the insured's cash position, their salaries will not be continuing charges. For example, if, after a loss in which buildings and contents and business-interruption losses were covered by insurance, operating employees are transferred to repair work for which they are paid out of funds received from the insurance covering building and contents, their salaries, to the extent that they are paid out of such funds, cease to be continuing expenses.

Taxes on property are seldom abated because of its loss or damage until the next tax year, and such taxes are, therefore, continuing charges in most losses. Sales taxes are not treated as charges but are shown as a deduction from sales. Income taxes, whether federal or state, are payable by the insured out of net profit and should not appear in any statement of a business-interruption loss.

In considering any charge or expense for which claim is made, the adjuster should apply two tests: Would it have been earned had no casualty occurred? Must the insured pay it after the casualty? If answers to both questions are "yes," it is payable as part of the business-interruption loss.

If a business has been making a net profit, it has been earning all its charges and expenses, for there can be no net profit unless income exceeds

outgo. If facts in hand indicate that the probable experience of the business after a casualty would be no less successful than its experience before, the inference that it would have continued to earn its charges and expenses is justified. Charges or expenses incurred under contracts or because of legal requirements will continue according to the terms of the contracts or the provisions of the laws under which they were incurred. An officer or employee under yearly contract will have to be paid his salary until the expiration of the contract, while taxes on real and personal property will have to be met until relief is given by operation of law.

Transfers of Material. When two plants under the same ownership are covered by a blanket policy of business interruption insurance, transfers of material from the contributing plant to the dependent plant should be entered in the loss account at cost of production. Such transfers have exactly the same effect on the insured's earnings as the movement of material from one room to another in the same plant.

Effect of Suspension. The total suspension of a business for a long period produces a total loss of gross profits on the sales lost but generally makes it possible to reduce materially the amount of charges and expenses that must necessarily continue. On the other hand, during partial suspension of a business, all charges and expenses may necessarily continue without any reduction. The circumstances attending each suspension determine its effect on the receipts and expenditures of the business.

Typical Situations. The following histories of several losses present typical situations.

1. *Metal- and Leather-working Plant.* The insured produced small metal articles in quantity by shearing, punching, and stamping steel sheets and strips. Larger articles were produced in small quantity by hand forging, filing, and grinding. Leather articles were made by die cutting, bradding, and sewing.

Fire destroyed all parts of the plant except the forge shop and the grinding room. Shortly after the fire, operations in these rooms were resumed.

Adjustment of building and contents losses was made within 30 days. The business-interruption loss was adjusted a week later on a forecast of 6 months suspension in varying degrees. The experience of the previous year was accepted as a probable experience. Careful inquiry justified continuation of all charges, with one slight reduction.

Insurance carried was \$53,000, Item I, standard manufacturing form, 80 per cent contribution clause. Business-interruption value was agreed upon as \$71,485.29 and was calculated as follows:

Sales, 12 months before fire.	\$454,843 41	
Less commissions	20,643 01	
	<u>\$434,200 40</u>	
Raw materials and supplies	\$211,024 86	
Ordinary payroll expense.	145,720 34	
Heat, light, and power	5,969 91	
Cost of sales.	<u>\$362,715 11</u>	362,715 11
Gross profit and business-interruption value		<u>\$ 71,485 29</u>

Loss was computed as follows:

Gross profit, as shown.		\$ 71,485 29	
	<i>Annual charges</i>		<i>Annual continuing charges</i>
Officers' drawings.	\$ 25,747.24		\$25,747.24
Foremen.	9,007.28		9,007.28
Clerical.	2,495.95		2,495.95
Association dues	617 65		617.65
Autos.	417.35		417.35
Telephone and telegraph	1,017.87		1,017.87
Miscellaneous.	57.73		57.73
Window cleaning	146.00		73.00
Advertising.	174.49		174.49
Sanitary service.	94.31		94.31
Hauling.	220.64		220.64
Gifts and entertainment	545.55		545.55
Directors' fees	25.00		25.00
Medical.	77.00		77.00
	<u>\$ 40,644.06</u>	<u>40,644 06</u>	<u>\$40,571.06</u>
Net profit.		\$ 30,841 23	<u>30,841.23</u>
Net profit and continuing charges			<u>\$71,412.29</u>

$$\frac{\$71,412.29}{\$454,843.41} = 0.157 \text{ or } 15.7\text{¢ loss per dollar of sales}$$

Agreed loss of sales during 6 months following the fire, \$175,000.

$$\$175,000 @ 15.7\text{¢} = \text{loss, or } \$27,475$$

Liability of insurers,

$$\frac{\$53,000}{80\% \text{ of } \$71,485.29} \times \$27,475, \text{ or } \$25,462.73$$

2. *Luncheonette*. The insured operated a luncheonette and was licensed to sell beer. The risk was a two-story frame building. Fire destroyed the building and contents. It was agreed that the premises could be rebuilt and equipment installed in 6 months and that loss should be based on the experience of the year before the fire.

Insurance carried was \$14,000, Item I, standard mercantile form, 80 per cent contribution clause. Business-interruption value was agreed upon as \$15,544 and was calculated as follows:

Sales, 12 months, partly estimated.....	\$47,273
Opening inventory.....	\$ 950
Purchase.....	30,088
	<u>\$31,038</u>
Less closing inventory.....	1,959
Cost of sales.....	\$29,079
Laundry and supplies.....	725
Gas and electricity.....	425
Ordinary payroll.....	1,500
	<u>31,729</u>
Gross profit, business-interruption value.....	\$15,544

Loss was computed as follows:

Gross profit, as shown.....	\$15,544	
	<i>Annual charges</i>	<i>Annual continuing charges</i>
Rent.....	\$ 1,260	
Insurance.....	225	\$ 225
Fixture purchases.....	210	
Repairs.....	290	
Beer license.....	240	
	<u>\$ 2,225</u>	<u>2,225</u>
Net profit.....	\$13,319	13,319
Net profit and continuing charges.....		<u>\$13,784</u>

Six months' loss, $\frac{6}{12}$ of \$13,784 or \$6,892

3. *Frozen-foods Depot*. The insured operated a frozen-foods depot, from which he supplied retailers. Fire damaged the premises. It was agreed that restoration could be made in 1 month and that during the restoration period all expenses would continue. Insurance carried was

\$15,000 on gross earnings, 50 per cent contribution. Experience before fire was taken from profit-and-loss statement for year ended June 30, 1951, checked against books, also from a memorandum statement of July–October, 1951, transactions.

Sales July 1 to Oct. 31, 1951	\$64,898 15
Cost of sales	48,195.61
Gross earnings	<u>\$16,702.54</u>
	$\frac{\$16,702.54}{\$64,898.15} = 25.7\%$

Monthly sales, same period—unadjusted—for trend only

	1950	1951
July	\$12,849 88	\$16,757 70
August	10,897.75	17,959 16
September	14,748.53	13,397 64
October	12,787 23	14,134.64
Total	<u>\$51,283.39</u>	<u>\$62,249 14</u>

Increase in sales, \$10,965.75 or 21.38%

Sales, July, 1950–June, 1951 inclusive	\$174,152 09	
Add 21.38%	37,233 72	<i>Gross earnings</i>
Projected 12 months' sales	\$211,385.81	@ 25 7% = \$54,326.15
Estimated loss, 1 month's sales:		
November, 1950	\$12,559.66	
December, 1950	17,375 50	
	<u>\$29,935.16</u>	
Add 21.38%	6,400.13	
Probable sales, 2 months	<u>\$36,335.29</u>	

		<i>Less</i>
\$18,167.64 (sales for 1 month) × 25.7%		\$4,669.08
Less expense that does not continue		314.12
		<u>\$4,354.96</u>

Insurer pays $\frac{\$15,000}{50\% \text{ of } \$54,326.15} \times \$4,354.96 = \$2,404.90$

4. *X. Y. Z. Manufacturing Company.* The author has no knowledge of the circumstances of this loss, except that the insured was instructed to resume

operations, record results, and present claim when the property had been restored. Insurance was carried under Item I of the two-item, contribution, manufacturing form. The time of restoration was 9 months. The projected experience of the business, as agreed upon had there been no loss, is shown in Column (1), the actual experience after the loss, in Column (2).

	(1) <i>Projected experience</i>	(2) <i>Actual experience</i>
Sales.	\$426,959.19	\$302,930.04
Less returns and allowances	3,338 82	4,482.62
Net sales	<u>\$423,620 37</u>	<u>\$298,447.42</u>
Less discount on sales	10,434 88	9,489 79
	\$413,185 49	\$288,957.63
Materials consumed.		
Cost less discount	\$274,910.48	\$207,302 01
Freight	12,454 40	8,836 47
Demurrage	149 44	189.21
Freight out	<u>55.50</u>	<u>25 87</u>
	\$287,569 82	\$216,353 56
Heat, light, and power:		
Coal, electricity, water. . . . \$	1,528 51	\$ 1,390 20
Supplies	179 32	142 88
	<u>\$ 1,707 83</u>	<u>\$ 1,533 08</u>
Entire ordinary payroll expense:		
Wages \$	20,861.23	\$ 23,433 81
Payroll taxes.	458.95	515 54
	<u>\$ 21,320 18</u>	<u>\$ 23,949 35</u>
Total costs	310,597.83	241,835 99
Gross profit	\$102,587.66	\$ 47,121 64
Charges and expenses:		
Executive salaries. \$	20,719.93	\$ 20,719 93
Office salaries.	8,145 65	8,145 65
Sales salaries.	1,115 22	980.77
Superintendent's salaries. . .	3,615.50	3,615 50
Architect's salary.	1,892.38	1,892 38
Watchman's wages.	1,267.20	1,346 39
Social security taxes.	550.79	549 58
Repairs to buildings.	1,401 28	2,521 55
Repairs to boiler	476.72	635 63
Repairs to machines.	189.80	136 64
Advertising.	3,207.83	3,207 83
Auto and truck expense . . .	2,759.04	1,887 50
Postage.	283.28	321.62
Telephone and telegraph. . . .	1,625.89	1,641.59

Brought forward.	\$102,587 66	\$ 47,121 64
Legal and professional.	3,758 50	8,652.85
Office supplies	642 55	906.73
Dues and subscriptions	405 19	1,420 03
Donations and miscellaneous	1,198 18	1,896 21
Traveling expense	3,549 60	3,101.94
Insurance.	3,520.50	3,535.55
Stationery and printing.	784.44	789.50
Real estate taxes.	1,272 88	1,833 02
Interest paid	401.98	401 98
Depreciation	2,283 87	1,904 31
Total charges and expenses	65,068 20	72,044 68
Net profit, insurable	\$ 37,519.46	
Net loss		\$ 24,923 04
Less increased costs not caused by fire.		8,493.38
		\$ 16,429 66

Business-interruption loss:

Projected: Anticipated net profit if no fire had occurred	\$ 37,519 46
Actual: Net loss caused by fire.	16,429 66
Actual loss sustained.	\$ 53,949 12
Expediting expense	1,072 00
Total claim	\$ 55,021 12

5. *Manufacturing Plant.* The author has no knowledge of the circumstances attending this loss, which was adjusted by the Western Adjustment & Inspection Company. The figures in their statement of loss make an excellent example of an adjustment under a two-item form when there is a loss under both items and no contribution.

Item I: Insurance carried, \$245,000

Anticipated sales, 12 months.	\$735,018.32
Cost of sales:	
Materials.	\$284,186 40
Ordinary payroll expense.	166,168 52
Heat, light, and power.	8,090 12
Business-interruption value	\$276,573.28
Suspension period, Dec. 16 to Mar. 17.	

	<i>Anticipated operation</i>	<i>Actual operation</i>
Net sales	\$183,754 58	\$139,481.35
Cost of sales:		
Materials.	\$71,046 60	\$61,962.20
Ordinary payroll.	41,542 13	35,762.70
Heat, light, and power.	2,022.53	1,763.88
	114,611 26	99,488.78
	\$ 69,143 32	\$ 39,992.57

Brought forward.....	\$ 69,143.32		\$ 39,992.57
Departmental expenses.....	2,677.53	2,677.53	
Foundry expense.....	6,077.77	2,143.71	
Building repairs.....	15.16	15.16	
Machinery repairs.....	262.92	262.92	
Job freight and express.....	615.98	615.98	
Insurance.....	2,052.03	2,052.03	
Depreciation.....	1,783.41	1,585.59	
Taxes.....	1,134.75	1,134.75	
Rent.....	15.00	15.00	
Executive salary and bonus.....	4,938.64	2,940.75	
Office.....	3,169.46	3,169.46	
Watchmen.....	1,652.90	1,652.90	
Engineering.....	638.40	638.40	
Other expense.....	2,921.68	2,921.68	21,825.86
Net profit.....	\$ 41,147.69		\$ 18,166.71
	18,166.71		
Actual loss sustained.....	\$ 22,980.98		

Item II: Insurance carried, \$45,000

Payroll value, 90 days..... \$41,542.13

Jan. 6 to Mar. 10

10 men employed..... \$ 2,896.67

Mar. 10 to 17

8 men employed..... 221.00

\$ 3,117.67

Payroll taxes..... 65.47

Actual loss sustained..... \$ 3,183.14

6. *Furniture and Vehicle Factory.* Again, the author has no personal knowledge of this loss, which was also adjusted by the Western Adjustment & Inspection Company.

The insured lost all leatherette in the raw-stock storage section of the factory. There was no damage to production facilities. In order to prevent a shutdown of the baby-buggy department in which leatherette was necessary to operation, leatherette was purchased from jobbers, who could make immediate delivery. Factory delivery could not be had for several months. The only loss was the extra expense for the leatherette.

Insurance carried \$800,000 Item I, Form 193L, 80 per cent coinsurance.

\$100,000 Item II, Form 193L, 80 per cent coinsurance.

Figures agreed upon, based on previous fiscal year:

Gross sales, 12 months	\$4,080,618.05
Returns and allowances	\$ 85,721 35
Commissions to consignees	104,157.99
Prepaid freight	16,255 12
Net sales	<u>206,134.46</u>
	\$3,874,483 59
Cost of sales:	
Materials	\$1,975,032 44
Heat, light, and power	27,370 35
Ordinary payroll expense	935,339.33
	<u>2,937,742.12</u>
Business-interruption value—gross profit	\$ 936,741 47

	<i>Previous</i>	<i>Continuing</i>
Expenses:		
Essential salaries	\$338,038 44	\$338,038 44
Depreciation	49,490.15	24,745 07
Factory supplies	25,584.68	0
Group insurance	24,475 71	24,475 71
Property insurance	7,980 32	7,980.32
Life insurance	1,509.48	1,509.48
Royalties	6,502.30	0
Warehouse rent	6,030.00	6,030.00
Watchman's service	5,845.00	5,845.00
Amortization	4,255 23	4,255 23
Scavenger	922.00	0
Licenses	287 93	287.93
Miscellaneous	7,941 07	0
Travel	73,405 60	0
Advertising contract	45,108 71	45,108.71
Outside showrooms	41,068 43	41,068 43
Executives' autos	4,118.09	4,118 09
Legal and audit	29,863 56	9,900.00
Office expense	21,286.22	10,643.11
Property taxes	21,354.29	21,354.29
Corporate taxes	3,348.11	3,348 11
Registrar	1,321 80	1,321 80
Dues and subscriptions	1,936 52	1,936 52
Donations	19,740.22	19,740 22
Repairs	27,642 22	0
Total	<u>\$769,056 08</u>	
Net profit		<u>167,685.39</u>
Continuing charges and net profit		\$739,391.85
Percentage of sales		

$$\frac{\$739,391.85}{\$4,080,618.05} = 18.12\%$$

Ordinary payroll expense:

Payroll, payroll taxes, and compensation insurance,

12 months \$935,339 33 [90 days ($\frac{1}{4}$) \$233,834 83]

Percentage of sales

$$\frac{\$935,339.33}{\$4,080,618.05} = 22.92\%$$

Probable length and degree of suspension. If plant had awaited arrival of factory shipments of leatherette, there would have been a 75 per cent suspension of production in the baby-buggy department for December.

Agreed loss Items I and II:

Leatherette required before factory shipment could be delivered:

Jobbers' price	\$33,153.05
Factory price	21,455.19
Excess	\$11,697.86
Special express	807.39
Telephone	48.75
Special trucking	253 00
Miscellaneous	410.57
Total extra expense	\$13,217.57

Possible losses had the extra expense not been incurred

Item I

December sales

$$\frac{\text{Baby-buggy department, \$129,002}}{\text{All departments, \$441,989}} = 29.1867\%$$

Probable loss under Item I,

75 % suspension during December

$$\$129,002 \times 75\% \times 18\ 12\% = \$17,531.37$$

Item II

Ordinary payroll

$$\text{Baby-buggy department sales, } \$129,002 \times 75\% \times 22.92\% = \$22,175.44$$

Probable loss under Item II, 75 % suspension during December

$$\frac{\$100,000}{80\% \text{ of } \$233,834.83} \times \$22,175.44 = \$11,854.22$$

Apportionment of loss to items

	Possible loss	Actual loss
Item I	\$17,531.37	\$ 7,885.57
Item II	11,854.22	5,332.00
	<u>\$29,385.59</u>	<u>\$13,217.57</u>

Suspension of Operations, Effect on Sales. In some instances, damage to a manufacturing plant causes a suspension of operations that is followed by loss of production and consequent loss of sales. In others, production will be deferred without any loss of sales, but generally with some increase in the cost of operating.

Some plants carry no reserve of finished goods and, if they do not produce, have nothing to sell. Others carry a reserve and, if operations are suspended, may be able to fill all orders out of the reserve until repairs have been made and production resumed.

It is part of the adjuster's task to determine in any case involving a suspension of operations whether the suspension will produce a loss of sales, will only defer sales, or will have no effect on sales.

Where, following a suspension of operations, sales are continued out of a reserve of finished goods, it is necessary to inquire whether the depletion of the reserve while the plant is not producing will result in loss of sales at some future date. If so, the amount of sales to be lost in the future must be estimated and agreed upon as a factor to be used in computing the insured's loss.

In some industries production is seasonal, and the sales value of finished goods is limited by the quantity of raw material available. Consider the position of a plant that has bought its year's supply of raw material and arranged its operating schedule to work up the material in 25 weeks. Assume that the raw material will produce 50,000 units of finished goods. The buildings and equipment of the plant are damaged by fire, but without damage to raw material, stock in process, or finished goods. Operations are suspended for 4 weeks, after which they are resumed and continued to conclusion. The plant will finish its production 4 weeks later than had been planned, but there will be no loss of sales. The business-interruption loss will be the additional cost of the longer period of operation.

Many losses involve suspension of operations without immediate loss of sales, and it is impossible to determine with any certainty what effect the loss of production will have on future sales. Such losses generally occur in plants that carry reserves of finished goods. While operations are suspended, the reserve diminishes from day to day as goods are shipped, and the question arises, "Will there come a time in the future when the reserve will be exhausted and orders, which ordinarily could have been filled,

will be lost?" The answer to the question is never positive, because no one can be sure as to future events. It must follow the stipulation in the policy and be made after giving consideration to "the experience of the business before the loss and the probable experience thereafter." Probable experience is a matter of opinion, over which insured and adjuster may honestly differ after considering the evidence in hand and trying to visualize all the circumstances that may affect the experience after the loss. Compromise of differing opinions is often necessary if agreement is to be reached.

The ordinary guides followed in trying to find an answer to the question of how suspension of operations may affect future sales are production and shipping records, inventories of finished goods on hand, and capacity of the plant.

Production records before the loss may show a rate of operation at 100 per cent of capacity or some lesser percentage. Shipping records may show that goods are being shipped faster than they are produced, or at the same rate, or at a lower rate. Inventories will rise, remain stationary, or fall, depending upon whether production is greater than shipments or at the same rate, or shipments are greater than production.

Conclusions are ordinarily drawn from a study of the records covering operations before the loss and may be stated as follows:

1. If production was outrunning shipping and periodical inventories of finished goods were increasing, it is probable that a suspension of operations, unless prolonged, will not result in a loss of sales.
2. If production and shipping were proceeding at the same rate and periodical inventories of finished goods were not increasing or decreasing, it is probable that a suspension of operations will result in a loss of sales.
3. If shipping was outrunning production and periodical inventories of finished goods were decreasing, it is highly probable that a suspension of operations will result in an equivalent loss of sales.

Any showing of the records must be weighed against evidence of plant capacity. When a plant is running at capacity and has orders in hand, or has established a market that warrants capacity operation in the future, it is probable that any suspension of operations will result in a loss of sales equivalent to the loss of production. But if it is running at less than capacity, there may be a possibility of expanding operations and by doing so making up what would have been produced during the period of suspension, thus avoiding any loss of sales.

Loss When Production Is Deferred. When there is a suspension of operations without loss of sales because production has been deferred but not lost, the insured may actually sustain a loss or may not.

Consider the case of the plant, referred to in the preceding section, that bought its year's supply of raw material and planned to work it up into finished goods in 25 weeks. Because of a fire, it did not complete its operations until the end of 29 weeks. There was no loss of sales. The plant produced the 50,000 units that it had planned to produce and sold them for the same amount it would have sold them for if they had been ready 4 weeks earlier. But the profit-and-loss account will show a greater cost of sales and, therefore, a smaller net profit than it would have shown had operations been completed in the 25 weeks that would have sufficed had there been no fire. Certain expenses that should have run for only 25 weeks necessarily ran for 29 weeks and were, therefore, greater. In such a case, the business-interruption loss is the difference between the net profit that would have been earned had the plant operated normally for 25 weeks as planned, and the actual net profit earned after operating 29 weeks. This difference should be equivalent to the increased cost of maintaining the plant for 29 weeks as contrasted with 25 weeks.

In some short shutdowns there is no loss sustained under Item I of any standard two-item policy. If a plant is running at less than capacity but is producing all the finished goods that can be sold, failure to produce for 3 or 4 days may do no more than reduce slightly the inventory of finished goods on hand. The reduction can be made up without extra cost by using the idle capacity, and the insured will be as well off as though the shutdown had not occurred.

Expense to Reduce Loss. Expense to reduce loss is in many instances specifically authorized by the adjuster. In such instances it is necessary to check only the correctness of the amount. He may have authorized the expenditure of a definite sum in dollars. If so, the check is easy. On the other hand, he may have authorized certain work to be done, requiring expenditures for materials and labor. When such is the case, the check to see whether the expenditures are reasonable is a bit more difficult. Items of expense not specifically authorized must be scrutinized to determine whether they were necessary and must be contrasted with the amount by which loss under the policy was reduced because of the expense.

Care must be exercised in checking expenditures for cleaning up or making temporary repairs to be certain whether the entire amount should be borne by the business interruption insurance or some part by the property insurance.

Excess Cost of Materials. In some instances the loss sustained by reason of a suspension or threatened suspension of sales due to destruction or damage of the property will be measured by the excess cost of buying from outsiders materials that the business would normally produce for its own use.

Opinions differ as to the treatment of any such excess cost. Some adjusters believe it should be applied against operations and produce a loss of earnings, which will be subject to coinsurance; others believe it should be treated as expense to reduce loss and, therefore, not subject to coinsurance.¹

Salvage in Temporary Arrangements. Structural additions, alterations made, or equipment purchased to reduce business-interruption loss may have a useful value to the insured after the loss has ended, or a selling value of more than the cost of removal. If so, proper credit should be taken in the business-interruption loss for their useful or salvage value.

Limitations and Exclusions. The following provision appears in the Standard Manufacturing Form:

RAW STOCK: If raw stock, while in the above described building(s) or structure(s) or in the open on premises above described, is damaged or destroyed during the term of this policy by fire or lightning so as to necessitate a total or partial suspension of business, this Company shall be liable, subject to all the conditions and limitations of this insurance, for loss during such additional time, if any, but not exceeding thirty consecutive days, as the shorter period described in (a) or (b) below exceeds the time during which this Company is liable under the provisions of section 1 of this form.

- (a) The time for which the damaged or destroyed raw stock would have made operation possible.
- (b) The time required, with the exercise of due diligence and dispatch, to replace or restore said damaged or destroyed raw stock.

¹ See "Expediting Expense vs. Increased Cost of Operation," paper presented by W. H. Davidson, Manager Fire Division, General Adjustment Bureau, Atlanta, at Sept. 28, 1951, meeting, New England Claims Conference, Manchester, Vt. See also "Business Interruption Loss Adjustments," General Adjustment Bureau, Inc., New York, 1951.

The 30-day period may be extended by endorsement.

According to accepted practice, loss during any period of suspension caused by damage or destruction of raw stock is computed according to sales lost or extra expense required to replace or restore the stock, both subject to the 30-day limit.

The form also contains the following provision:

STOCK IN PROCESS: If stock in process while in the above described building(s) or structure(s) or in the open on premises above described is damaged or destroyed during the term of this policy by fire or lightning so as to necessitate a total or partial suspension of business, this Company shall be liable, subject to all the conditions and limitations of this insurance, for loss during such time, if any, in addition to the time for which it would otherwise have been liable, as would then be required with the exercise of due diligence and dispatch to replace or restore said stock in process to the same state of manufacture in which it stood at the date of loss, except that such additional time shall in no event exceed thirty consecutive days.

This 30-day period may also be extended by endorsement.

There are special exclusions relative to finished stock, ordinance or law regulating construction or repair of buildings, interference at the premises by strikers or other persons with rebuilding, repairing, or replacing operations, or consequential or remote loss. These exclusions are self-explanatory.

Relative to the exclusion of loss due to the cancellation of any lease, license, contract, or order, it is accepted practice to base the computation of a loss affected by lease, license, contract, or other condition on the length of time necessary to make repairs and replacements, but not on any longer period. For example, a plant may be working on a contract covering a period of 12 months and requiring it to deliver 1,000 units a month. A loss occurs that interrupts production for 3 months. Immediately on learning of the loss, the purchaser of the units cancels the contract and transfers his business to a competitor. The insured is entitled to claim for lost sales on the contract for the 3 months during which production is interrupted, but not for sales lost afterward due to cancellation of the contract.

Conflict of Covers. Rent or rental value, profits and commissions, extra expense insurance, or insurance covering stock at its selling price may create, if carried by the insured, conflict of covers on the property described in his business-interruption contract. When the business-

interruption contract is endorsed to permit the carrying of rent insurance, there will be no conflict between the two covers. If extra expense insurance is subject to the proviso that it is excess insurance, it will not conflict with the business-interruption-insurance coverage of expense to reduce loss. But to date there is no accepted way of obviating the conflict in mercantile risks between business interruption insurance and profits and commissions insurance, or selling price insurance covering stock.

Appraisals. Business-interruption losses are seldom appraised. The results, however, have generally been satisfactory.

Reports and Statements of Loss. Underwriters expect reports that will cover various combinations of (1) insurance, (2) insured, (3) risk, (4) cause and extent of damage to the property, (5) degree of suspension, (6) survey, (7) efforts to resume operations, (8) amount of property loss, (9) choice of method of adjustment, (10) preparation for making the adjustment, (11) claim, (12) adjustment. It is rarely necessary to report on all subjects.

Statements of loss should go into sufficient detail to show how amounts agreed upon were established. A number of well-drafted statements have been published in the manuals of the adjustment bureaus and should be studied as models.¹

Recently, George Simpson Jones, Executive General Adjuster of the Eastern Department of the General Adjustment Bureau, has suggested that the figures showing how a business-interruption adjustment was made should be presented in the statement of loss in a standard order of seven steps.² The author agrees with the suggestion and advocates that all adjusters observe it when preparing statements. What follows is based on Mr. Jones's suggestions.

A statement should always show, immediately following the heading, the amount and coverage of the insurance.

The seven steps and a statement prepared in accordance with them follow:

¹ See "Business Interruption (Use & Occupancy) Adjustments," Western Adjustment & Inspection Company, Chicago, 1946. "Business Interruption Guide," General Adjustment Bureau, Inc., New York, 1952. See also "Business Interruption Loss Adjustments," General Adjustment Bureau, Inc., New York, 1951.

² "Statements of Business Interruption Losses," paper presented at Sept. 28, 1951, meeting, New England Claims Conference, Manchester, Vt. See also p. 540*n*.

1. Show the sales, or the sales value of production, and the costs of the sales or the production, before the loss and the gross profit, business-interruption value, or gross earnings for a 12-month period before the loss.

2. Show the trend of the business, and the amount of the business-interruption value or the gross earnings agreed upon as probable for the 12 months immediately following the date of loss.

3. Show the amount of the property damage, buildings and contents.

4. State briefly the nature and extent of the damage that caused the suspension of business, the processes, departments, or space where production or selling was affected, and the degree and length of time of suspension as agreed upon.

5. Show in detail how the amount of loss, exclusive of any expediting expense, was computed.

6. Show the application of the contribution clause.

7. Show any items of expediting expense, also the amount of loss which the expense saved the insurer.

Reverting to the metal- and leather-working plant loss, discussed on pages 528 and 529, a statement prepared to show the seven steps follows:

STATEMENT OF LOSS
THE METAL WORKING CO.

Fire: February 1, 1952

\$53,000 on business interruption, Item I, Form 2, 80% contribution

1. Experience before loss

Sales, 12 months ending Dec. 27, 1951 . .	\$454,843.41
Less commissions	20,643.01
	<u>\$434,200.40</u>

Cost of raw materials and supplies	\$211,024.86	
Ordinary payroll	145,720.34	
Heat, light, and power	5,969.91	
Cost of sales	<u>\$362,715.11</u>	362,715.11
Gross profit and business-interruption value		<u>\$ 71,485.29</u>

2. Trend of business

	1950	1951
Sales for calendar year	\$561,094 00	\$471,276.93
Sales—Feb. to Aug.	204,968 86	216,796 66

Owing to new orders, plant had begun working a night shift just before fire. Calendar-year experience of 1951 accepted as probable future experience.

3. Property damage

	<i>Sound value</i>	<i>Loss</i>
Building	\$ 91,400 00	\$ 66,340.33
Contents	<u>167,233.10</u>	<u>142,835 04</u>
	<u>\$258,633.10</u>	<u>\$209,175.37</u>

4. Cause and extent of loss

Fire destroyed all of plant except cutting-die department Adjusters agreed that suspension of business in varying degree would continue for 6 months

5. Computation of amount of loss

Gross profit, as shown	... . \$71,485 29	<i>Continuing</i>
Officers' drawings	\$25,747.24	\$25,747 24
Foremen ..	9,007.28	9,007 28
Clerical . . .	2,495.95	2,495 95
Association dues.	617 65	617 65
Autos .	417 35	417 35
Telephone and telegraph . .	1,017.87	1,017 87
Miscellaneous . . .	57.73	57.73
Window cleaning .	146 00	73 00
Advertising .	174 49	174 49
Sanitary service .	94 31	94 31
Hauling . .	220 64	220 64
Gifts and entertainment.	545 55	545 55
Directors' fees. .	25 00	25 00
Medical. . .	77 00	77 00
	<hr/> \$40,644 06	<hr/> 40,644 06
Net profit. .	. \$30,841 23	<hr/> 30,841 23
		<hr/> \$71,412 29

Practically all charges and expenses will continue. Insured has resumed operation of cutting-die department which, in the past 2 years, has produced an average of 14 per cent of sales volume.

$$\frac{\$71,412.29}{\$454,843.41} = 0.157 \text{ or } 15.7\text{¢ loss for each sales dollar}$$

Loss agreed as lost sales of \$175,000 @ 15.7¢ or \$27,475.

6. Application of contribution clause

$$\text{Liability of insurance} = \frac{\$53,000}{80\% \text{ of } \$71,485.29} \times \$27,475 \text{ or } \$25,462.73$$

7. There was no expediting expense.

Final Papers. Final papers should include a copy of the claim, if any formal claim was made, and also any estimates of builders, engineers, or other experts as to the time necessary to restore operating conditions in the property. If an accountant was employed, his report should be included. A copy of any market survey should be included.

Objectives and Methods

The insurance contract contemplates that claim shall be made on the basis of exact figures; but this can be done only when the insured knows the exact amount of his loss, will be satisfied to receive it, and does not think it necessary to adopt trading tactics to collect it. As there are many cases in which one or more of these conditions are lacking, it is not surprising that many claimants ask for more than they are entitled to. In some cases, they will be in doubt as to the amount of loss or their rights under the insurance contract. In others, they may be under the impression that, to get what they should, they must present high figures and trade on them. In still others, they aim to get as much as they can. The desire to bargain and be a gainer in every transaction is a ruling passion with many persons and will be strongly in evidence when they appear as claimants. In a relatively small number of cases, but a number great enough to cause considerable trouble and expense to insurers, claimants will plan to defraud them of substantial sums. In all these cases, the attitude and conduct of the claimant will make it difficult for the adjuster to effect an accurate or equitable adjustment.

In difficulties arising out of the claimant's ignorance, the adjuster may well spend considerable time showing him the truth about his loss and explaining to him his rights and duties under the insurance contract. Most claimants lack the ability to visualize ways of restoring damaged property to usefulness. Few persons suffer more than one loss in a lifetime, and the many have no experience to guide them in their efforts to handle property that has been damaged. Moreover, the public have misconceptions of the insurance contract, a common one being that the claimant should do nothing to disturb the appearance of the property, or even protect it or put it in order, before the arrival of the adjuster.

In cases made difficult by the claimant's desire to bargain, to collect a loss not covered by the policy, or to realize on a grossly exaggerated or fraudulent claim, the adjuster must employ tactics demanded by the particular situation and claimant.

A proper disposition of the claim is the purpose of every adjustment, to accomplish which the adjuster must determine the questions of amount of loss and liability and convince the insured that these have been determined properly. If the insured cannot, or will not, be convinced, the adjuster must proceed to do whatever may be necessary to enforce the contract; assuming, of course, that he is sure of his position. All reasonable chance of error should be eliminated, and there must be no hesitation to change a position once taken if new evidence comes to light. But when sure of his position, the adjuster should maintain it by refusal to proceed unless it is acknowledged, by using one or more of the requirements of the policy to enforce it, or by preparation for litigation if there is no reasonable alternative.

Tactful and diplomatic handling of claimants is essential, as otherwise the adjuster will arouse unnecessary antagonisms which in many cases he will be unable to overcome. Feelings and emotions play a large part in adjustment work, so large that, unless the adjuster has a marked ability for handling people, he should be in other employment. As the negotiations leading up to an adjustment should represent an earnest endeavor to ascertain an actual state of facts, they should be conducted so as to obviate unnecessary friction or ill feeling. Unless so conducted, adjuster and claimant may become engaged in a conflict of personalities likely to end in an inequitable settlement, leaving a dissatisfied policyholder who may thereafter become an active enemy of the company or agency insuring him. The adjuster who cannot command the confidence of honest claimants and the respect of all will find that many of his adjustments degenerate into contests, in which it will be difficult to hold his own. Ignorance of human nature, or an arrogant unwillingness to observe the fundamentals of human relations, will lead him to inevitable disaster. He should always remember that, while he is dealing with losses every day, the usual claimant suffers but one loss in a lifetime and is ordinarily badly upset by the occurrence. The adjuster's position obligates him to deal fairly, and experience should broaden his understanding to a state in which the nervous and excited actions of claimants do not even irritate

him but merely indicate to him the manner he should adopt to bring about a condition of confidence and cooperation on the part of the honest, or of respect or apprehension on the part of the grasping or criminal. He will encounter many cases in which the facts are in doubt and cannot be clearly established, others in which the claimants are ignorant, unreasonable, or even criminal in their presentation of claim. In any of these cases, the negotiations may require time and skillful handling, sometimes diplomatic, sometimes forceful, and may finally reach the point where compromise, appraisal, or litigation is in order. The methods used to determine loss and liability have been discussed in previous chapters. The methods usually employed to bring about a reasonable adjustment, a compromise, or the abandonment of an improper claim, when the views of the adjuster and of the claimant are divergent, are discussed here.

Objectives. All reputable insurers expect their adjusters to handle losses fairly and honestly, but to be on guard against excessive, improper, or fraudulent claims. They expect prompt adjustment of reasonable claims, and the reduction of excessive claims to proper figures. Claims under void policies, or for losses not covered, are to be rejected, or, in case of extenuating circumstances, submitted to the insurer for consideration. Fraudulent claims are to be resisted and, if they cannot be defeated, are to be reduced, if possible, to an amount that allows the claimant no profit on his attempt.

To gain his objectives, the adjuster must, in many cases, parallel the work of the trial lawyer, testing the claimant and his evidence, presenting his own evidence in the most effective fashion, and arguing his points or appealing to the emotions of the claimant, choosing the method that promises the best result. In some respects, the adjuster's work is more difficult than the lawyer's because he must be less of a partisan and must look beyond his adjustments to their ultimate effects on the business of his principal. The lawyer in court deals with a hostile adversary, but the adjuster deals with many claimants who are long-time customers of the insurer. He is restrained by many considerations the lawyer may ignore. For instance, when handling an excessive claim made by a desirable policyholder, he has before him the lawyer's duty of protecting the interest he represents, but in addition, the duty to effect the protection in such a manner as to retain the good will and patronage of the claimant. When handling fraudulent or suspicious claims, he lacks the protection accorded

the lawyer in the privileged relation of counsel and client and must act with greater caution.

Reasonable Claims. Reasonable claims under valid policies should be promptly checked and disposed of. Nothing can be gained by delaying the adjustment, once it is determined that the insured is asking only for what he is entitled to. On the contrary, dilatory or careless handling may prove costly to the insurer in the way of lost business or disturbed agency relations. Haste, with its attendant possibility of error, should be avoided, but decision should not be postponed, once the claim has been thoroughly examined and verified. Some examples follow.

After a sweeping fire in the stockyards of a city of some 150,000 people, claim was made by a firm of livestock dealers for loss on a large number of mules. In support of the claim the dealers offered to assist in the count of the dead bodies, to turn over their books for audit, and to furnish a transcript of their general books, kept in another city from which the mules were shipped by rail. A committee of adjusters was formed under the chairmanship of an experienced independent adjuster, who allotted tasks to the various committee members. One audited the books and prepared an independent statement, one assisted in the count of the carcasses, another interviewed the foremen in charge of the pens, while still another checked the railroad records for deliveries. The work was completed by the time the transcript of the general books arrived and, on assembling the details, the claim was substantiated. It was promptly admitted, and proofs of loss were forwarded for payment without delay.

During the early days of World War I the roof on a large pipe-casting pit was burned away, leaving the supporting steel purlins and trusses badly bent from the heat. The plant had on hand a number of important orders, and prompt repair was essential. The insured presented a claim supported by an engineer's estimate of the cost of material and labor necessary to reroof. The adjuster inquired into the insured's plans for making the repairs and was informed that, as the plant employed a number of structural steelworkers, the engineers had planned to erect open-air forges on each side of the structure, to lower and straighten the bent steel members after cutting out the rivets, and to hoist them back into place and rerivet them. As the insured was a large concern of excellent reputation, the adjuster felt certain that, under the plan proposed, the expense

of repair would be less than the estimate and suggested the advisability of having the repairs made under the check of an independent engineer, the loss to be adjusted at actual cost. This plan was agreed upon immediately, and by following it there was a saving of more than 30 per cent of the original estimate.

A third case involved a large concern making bolts, nuts, washers, and similar articles. The plant was completely destroyed and on inspection seemed to be badly underinsured. Balance sheets, inventories, and detailed specifications of all the structures had been preserved in the safes. The insured's claim was based on these records and seemed to be in order. Because the loss apparently exceeded the insurance by a wide margin, the adjusters decided to test the correctness of the claim in a general way rather than to expend the time and money required for a detailed checking. They, therefore, prepared an independent statement of value from the book records and, in company with a competent engineer, made a careful survey of the ruins. The engineer's familiarity with machinery prices enabled him to certify that the loss was greatly in excess of the insurance, and his certificate justified the prompt approval of the claim.

The prompt adjustment of a reasonable claim should be followed by immediate completion and mailing of the final papers to the insurer, so that payment may be equally prompt.

Excessive and Improper Claims. Claims are frequently presented for amounts greater than the actual loss sustained, for loss not covered by the policy, for loss not caused by a peril insured against, or for loss to property not covered. Many excessive claims are made because of the claimants' ignorance of what can be done to repair or recondition property; others, because a certain percentage of claimants look upon the adjustment of a loss as a contest in which the claimant must start at a figure high above what he expects to collect. Some look upon an insurance policy as a lottery ticket and believe they are entitled to collect as much as they can without resorting to deliberate fraud or misrepresentation. Ordinarily, the reasonable claimant who asks in ignorance for more than he should receive can best be handled by the adjuster as a pupil is handled by his teacher. The loss should be carefully explained to him, values established in a manner that will convince him, and the real amount of the loss so clearly demon-

strated that he will be compelled to concede its correctness. While this is not always possible, it can often be accomplished and should usually be the first method tried.

Reasonable but Misinformed Claimants. As a case in point, a claim was presented that included a soda fountain only slightly discolored by smoke and water, although part of the building had fallen in around it. The amount asked was considerably greater than the adjuster's idea of the damage, but as the insured seemed to be conscientious and willing to be convinced, the adjuster decided to make a demonstration. He employed a laborer, furnished him with necessary supplies, and directed him in cleaning the fountain. When the work was finished, the insured looked it over and promptly admitted that the only loss he could claim was the cost of removing it to a place of safety.

In another instance, several floors of a wholesale grocery establishment were involved. The fire started on the top floor and was confined there by the sprinklers, but they discharged enough water to wet the contents of the floors below. The insured inventoried the damaged goods on those floors before the adjuster arrived and presented claim for a high percentage of value. The adjuster's examination convinced him that the claim was excessive but made in ignorance. He asked the insured to commence at once working over the stock, setting aside all damaged packages and transferring the undamaged to dry quarters nearby. When the work was finished, the insured voluntarily reduced the claim to less than one-fifth of the amount first asked, stating that he was pleasantly surprised to find out how much perfect merchandise was left under the top layers.

In another case, a firm of exporters suffered a loss in a public warehouse. Claim was based on warehouse receipts, the entries including as totally lost and missing a large quantity of cotton goods in export packages. On examination of the premises the adjuster found that only a small fire had occurred, entirely too small to account for the destruction of the goods. The active partner of the firm was asked to meet the adjuster at the warehouse for a discussion. The adjuster measured one of the remaining packages, measured the floor area scorched, and asked the active partner if the evidence warranted the conclusion that the missing goods had been burned. The active partner was compelled to answer "no" and made an investigation that resulted in a withdrawal of claim for missing packages. The loss on the other items was satisfactorily adjusted, and later in-

vestigation by the insured indicated that a series of thefts had been the cause of the disappearance.

In the case of a cottonseed warehouse situated in a town some 50 miles away from the oil mill owning it, a local buyer was employed to buy seed during the ginning season. He was furnished with funds and report blanks and made daily reports of his purchases. Toward the end of the season, the warehouse burned. The president of the oil-mill company had a claim prepared from the book record of purchases and withdrawals but frankly stated to the adjuster that the claim might be in excess of the value of seed on hand because word-of-mouth reports had reached him indicating that the buyer had been spending considerably more money than his commissions and was suspected of having reported purchases that were never actually made. The adjuster, after looking over the damaged premises, located a blueprint of the building, from which it was possible to calculate its storage capacity. With this as a basis, a reasonable settlement was at length worked out, materially less than the original claim.

In the foregoing instances the claimants were never in a hostile frame of mind; therefore, it was never necessary to put them under pressure. In each of the instances there was a problem to be solved, but a willingness on the part of the claimant to assist in the solution and to accept it, once its correctness was clearly demonstrated. Such an attitude indicated to the adjuster that negotiations would come to a proper ending if he determined the facts and presented them so clearly that only one conclusion could be drawn.

Hostile but Honest Claimants. Claimants are not always reasonable, particularly when they sincerely believe that their losses will approximate, or exceed, the insurance. In such cases they are likely to be restive and may become hostile in their attitude, if asked to carry out any condition of the policy contract entailing loss of time or expenditure of money.

A case of this kind arose in connection with the claim on a large stock of wholesale dry goods, damaged by the falling wall of a building next door. The stock was on several floors, two of which were crushed by the debris of the wall. The destruction of the roof was so extensive that to make the premises weathertight would have required complete reconstruction. The immediate problem of the loss was to remove the stock and protect it from further damage. As the insured was a close trader, he had

kept his insurance barely equal to the amount required by the coinsurance clause, leaving himself with an uninsured margin running into thousands of dollars. According to his ideas, he was entitled to a total loss under the policies and all the salvage and would still be a loser. The adjuster felt certain that he could recover and sell the salvage for enough to save the insured from any loss and at the same time save money for the insurers. He offered the insured the services of the Underwriters Salvage Company to remove and recondition the stock. The insured not only rejected the offer but became surly and ill tempered, finally asserting that he could remove and handle the goods to better advantage than any salvor. The adjuster at once seized on this remark and informed the insured that the policy required the protection of the goods, that their salvage value might be insufficient to cover the margin between insurance and sound value, and that, if under the circumstances he preferred to use his own efforts, rather than to have the work done by the salvage company, it was his right under the policy to do so but a right to be exercised at his own risk. The insured intimated that he would do nothing and demanded payment of a total loss. The adjuster replied with emphasis that, unless the insured performed his duties under the contract, the claim would be resisted and paid only after final judgment by the highest court. In this hostile atmosphere, the first meeting broke up. The next day the insured called at the adjuster's office and asked advice about the kind of building that would be best suited for handling the merchandise. He was advised to take one sufficiently commodious to allow space for racking and drying. A few days later the insured again asked for advice, and this time the adjuster sent a representative of the salvage company to the premises to explain what should be done. The adjuster followed and looked over the merchandise. The insured asked what he thought of it. The adjuster answered that, if the rest of the work was done as well as the first part, the final result would be highly satisfactory. A few hours later the insured appeared at the office and suggested that the salvage company complete the task. In the end a most satisfactory adjustment was reached, and afterward the insured became a valued adviser and appraiser for the adjustment office toward which his first attitude was so hostile. He was a strong man and needed strong treatment when he started off on the wrong foot, but when he found that his adversary was neither afraid of him nor vindictive, he

came first to respect him and then to like him, after which he was no longer an adversary but a counselor.

Trading Claimants. Some claimants are not content with collecting their actual loss but seek to get as much as they can by trading tactics. These claimants are quite numerous, for it is human to try to drive a good bargain. They are found in every walk of life. When recognized, they must be handled with tactics that are sometimes distasteful, but they cannot be successfully dealt with by methods that are effective with the types previously considered. The successful handling of the trading type of claimant requires the adjuster to present his case in such a way as to make the claimant believe that he is collecting the last possible cent to be extracted from the insurer. The effort to be expended will vary according to the tenacity of the claimant, and the negotiations will often take much more time than at first seems necessary. Trading tactics are essential with the trading type of claimant.

Some communities furnish an excessive percentage of claims deliberately presented for trading purposes. One of these communities is an old city, with a population at the time of the incident presented of some 75,000 people. In that community excessive building claims at one time became so numerous as to be expected in practically all building losses. A certain builder did much toward aggravating the condition, as it was his practice to solicit the work of making repairs and to furnish the insured with two estimates, one to be shown to the adjuster, and the other to be the basis of the work actually to be paid for by the insured. An adjuster handling one of these cases had the good fortune to encounter a claimant advised by a lawyer who had had many dealings with the adjuster and who knew that he could rely on him. The claimant asked the adjuster to prepare his figures and meet him for discussion later. At the conference the claimant stated that under the advice of his lawyer, he would be inclined to listen to the adjuster's proposals. The adjuster took him at his word and exhibited his own estimate. The insured produced the two given by the builder in question, the lower being almost identical with that of the adjuster.

Few claims made by trading claimants, or under the guidance of such persons as this builder, will come to such a prompt conclusion. Ordinarily the negotiations must be extended, while arguments and appeals con-

tinue to the point of exhaustion. The adjuster must remember that in the end the claim may have to be appraised, so he must beware of increasing his offer to an amount that, if not accepted, will prejudice his position in the appraisal. For this reason it is generally good generalship not to increase any offer until the claimant has receded somewhat from his first figure. Any vulnerable point in the claim should be the object of attack by the adjuster for, once it is carried, the rest of the task becomes easier. A prompt discussion of depreciation, in connection with the kinds of property that depreciate at a rapid rate, will often start the trader claimant toward a reasonable adjustment. Wearing apparel, machinery, metal smokestacks, paint, decorations, and roof coverings are instances.

Grasping and Unreasonable Claimants. When the claimant is of the grasping, overreaching type, it may become necessary to delay the adjustment or put pressure on him to bring him to reason. The unreasonable claimant who asks for excessive damage because of smoke may be directed to keep his property well aired but intact, until the adjustment has been completed. From day to day the odor of smoke will become less, while the need of using the property, unless it is in storage, will become greater. Finally it will commence to dawn on the claimant that he will be better off to accept a reasonable settlement and resume his business or the use of his premises than to persist in his attempt at an excessive collection. But when the settlement of such a claim is delayed, the adjuster should not rely on the effects of delay alone. He cannot always foretell how the negotiations will end and, if forced into an appraisal or reference, or into litigation, he should be prepared. For this reason he should fortify his position with the views of competent outsiders who may later be used as witnesses if litigation becomes necessary. Delay in negotiating a settlement may work actual harm to the insurer's interest, unless, during the delay, the adjuster pursues his preparations.

A case in point was an unwarranted claim for smoke damage in a large shirt factory. There was a small fire in an attic which was extinguished before any real damage was done. The local representative of several of the insurers looked over the property and left the premises satisfied that claim would be limited to the minor repairs required in the attic. To his surprise the claim presented included a large amount for damage to the stock on all floors. The senior adjuster of the office assigned to the loss gave personal attention to the claim. After a careful examina-

tion, he declared he could find no evidence of loss below the attic, and when the insured persisted in his efforts to collect, the adjuster commenced immediate preparations for whatever might develop. Not only did he have the stock examined by reputable merchandise men, whose reports were reduced to writing and kept as evidence, but he did not rest until he had interested the civil authorities to such an extent that the insurance commissioner of the state had the premises examined independently and received a report that no loss had been sustained. In the meantime, the claimant was first allowed to talk himself out and was thereafter left to his own devices. Finally the claim was withdrawn, the owners of the business admitting that it had been made at the instance of a subordinate whose zeal exceeded his judgment.

Demonstrations. While delay will often bring about the reduction of an excessive claim, immediate active tactics are far more satisfactory when the evidence is clear enough to admit the making of some effective demonstration. The claimant should be called on to witness the demonstration, and to correct or criticise any of the adjuster's statements or actions. Thus at one and the same time his judgment and his emotions will be affected and, if the demonstration is conclusive, he will rarely be able to persist in his improper attitude. In some cases the mere offer of a physical demonstration will cause a change of attitude, as the claimant will realize that the adjuster has discovered the truth.

Such a case developed out of the destruction of a bottling plant in a town of moderate size. The premises were of brick construction, with a concrete floor and a frame, tin-covered roof. There were enough inflammable contents in the way of crates and boxes to keep the volunteer fire department from getting inside to fight the fire, which did serious damage. When the adjuster arrived, he was informed by acquaintances that the fire was not above suspicion, as the business was on the verge of bankruptcy. In due course a claim was presented covering the contents. The machines were identifiable and were correctly listed. It was impossible to identify the other items of contents, such as sirups, extracts, crates, and bottles. Such books and records as were kept were in poor shape and, under the circumstances, unreliable. The adjuster was immediately impressed with the great number of bottles listed in the claim as destroyed. On questioning the claimant, he learned that the plant used a single style of bottle, several cases being still in evidence near the main doorway,

where the fire had been somewhat controlled by the fireman. After hearing the claimant's story, the adjuster made an excuse to leave. Later he returned and, in the claimant's absence, took three of the unbroken bottles, which he weighed in a neighboring drugstore. The bottles were blown to average 14 ounces each and showed a very slight variation in weight. From the average weight of the bottles the adjuster was able to calculate how many tons of glass should then be lying on the concrete floor to substantiate the claim for bottles. The claimant was asked to return to the premises and was particularly questioned about the number of bottles on hand. He was quite positive that, if anything, he had understated the number. The adjuster then asked him for the average weight of a bottle. This caused him some confusion, but he finally answered that he supposed they weighed about a pound each. The adjuster informed him that he was overstating the weight by some 2 ounces, that, based on the actual weight, there should be a certain number of tons of glass on the floor, and that he would hire two laborers and a pair of scales and proceed to weigh the glass, a proceeding the claimant might check if he cared to do so. The claimant intimated that he had probably made a mistake, promptly disappeared, and left his affairs to be settled by a trustee in bankruptcy, who reduced the absurd claim on bottles to a figure justified by the debris.

Similar tactics were used to reduce an excessive claim on a manufacturer's stock of hand mirrors, reduced to fragments by heat, falling debris, and the battering of hose streams. In this case the weighing was actually done, and the loss finally settled on a weight basis. The evidence and the use of it convinced the claimant that he could push his claim no further.

In another case, claim was made for the rusting of a reserve stock of spring wire in coils, stored in the basement of a factory. The adjuster checked the water stains from the floor on which the fire occurred, down the sides of the building, and into the basement. He became convinced that only a very small quantity of water had been used by the firemen and that little of this had reached the basement. The weather before and after the fire had been hot and humid, the humidity being daily commented upon in the papers. It, therefore, seemed probable that the accumulation of rust in the basement was due to condensation of atmospheric moisture and not to water from the fire above. At the time of inspection

there was no water on the basement floors or walls, and none visible on any of the stock. The adjuster, therefore, determined to make a test. He returned to the cutting benches in the factory and asked for a dozen samples of spring wire, intimating it might be well for him to check the prices in the market. With these in hand he started out but decided to have a last look at the basement. While going about among the coils of wire, he carefully placed the pieces of bright wire in various spots and left the premises. When he returned a week later to negotiate the adjustment, the pieces had all accumulated rust, a demonstration that the basement was not a proper place to store unprotected steel wire. The claimant could not controvert the evidence of the pieces of wire and reduced the claim to a trifling figure.

Results of Adjuster's Carelessness. These instances well indicate that, whenever a claim seems to be excessive, the adjuster must immediately make a careful examination of available evidence, determine the true position to be taken, and consider how to make his presentations or arguments most effective. Superficiality or slackness may lead to embarrassment and even failure. Incorrect conclusions may be drawn, unjust either to claimant or insurer, or positive evidence may be overlooked.

To illustrate: an adjuster was assigned to a livery-stable loss, in which the claim was for the burning of a quantity of hay. The hay was not in evidence when he arrived, but the claimant showed him the charred wagon body on which it had burned. The adjuster jumped to a conclusion, agreed to a settlement, and left the premises. His employer happened to check the fire-department report on the fire and noted that it had not occurred in the premises insured, but that the wagon and its contents had been fired by boys while standing at the curb a block away. The adjuster was asked for an oral report and was afterward directed to revisit the scene of the fire and report on the damage to the building. He came back greatly embarrassed by his original failure to look for smoke marks, the absence of which should have warned him to determine the actual location of the fire, which occurred at a location not covered by the insurance.

Deliberate Neglect of Property. There are some cases in which the insured seeks to keep the adjuster under pressure by neglecting to care for the property, and by seeking to make it appear that the progressing deterioration is chargeable to the adjuster's refusal to settle. In a case of

this sort, the adjuster should retort with a written demand under the policy that the insured protect his property from further damage and should see that the work of protection is pushed; otherwise, he should refuse to continue negotiations.

This action was effectively taken during negotiations on serious damage to a machine shop and foundry, the machine-shop unit of which had been unroofed by the fire. When the insured refused to coat the exposed machinery with grease, a peremptory letter was sent to him, calling his attention to the provision of the policy and stating that, unless the property was protected, the adjustment would be adjourned. Greasing of the machinery was under way a few hours after the letter reached him.¹

Experts. In many cases it is expedient for the adjuster to reinforce his efforts with those of some person particularly qualified to deal with the claimant because of special familiarity with the kind of property involved. If, to the general experience of the adjuster, is added the special experience of a person well known in his trade or occupation, it will generally be possible to bring to light the true state of facts surrounding the loss. The expert may be used as an *ex parte* appraiser or may be asked to accompany the adjuster and engage in the general discussion with the claimant.

In the case of an exorbitant claim for smoke damage made by a jeweler whose premises adjoined the building where the fire started, the adjuster became convinced that certain damages shown him were not the result of smoke. A number of pearl brooches ordinarily kept in a counter showcase were dulled and blackened, in spite of the fact that the case door closed tightly, and, in the adjuster's opinion, the case had not been entered by the smoke. Realizing his need of help, he employed one of the best-known jewelers in the state to examine the stock with him. This jeweler examined the first brooch, called for a magnifying glass, and directed the adjuster's attention to fibers of cotton clinging to the settings. He explained to the adjuster that the brooches had been smudged over with cyanide in order to injure and blacken the pearls. The claimant was taxed with deliberately seeking to create the impression of loss and countered by saying that he had exhausted all efforts to clean the pearls before finally trying the cyanide. Here the jeweler in the adjuster's employ was again able to supply a retort by inquiring whether it was not the

¹ A copy of the letter appears as Appendix E.

custom to teach all jewelers' apprentices that pearls and cyanide should always be kept apart.

In another case, a stock of metal-cutting tools was involved. While the fire in the premises gained considerable headway before the alarm, the fire department handled it effectively, confining it to one side of the store. Within 24 hours the stock was properly dipped in oil, and an inventory was commenced. When claim was made, it was far in excess of the adjuster's idea of the damage, and he at once started an investigation. He selected a number of drills, chisels, milling cutters, reamers, and similar tools, taking three of each from the worst burned section of the bins. These tools he turned over to a consulting engineer familiar with the metal-working plants in the city, asking him to distribute them so that three separate plants should test the cutting qualities of each kind of tool used. He was directed to see that each plant used the tools in the kind of work they were intended for and that the result of the tests be stated in writing over the signature of the plant manager. As all plants reported that, at the speeds for which the tools were designed, they functioned perfectly, the adjuster was able to establish his position that the loss was by no means so serious as claimed. The technical knowledge of the engineer enabled him to specify the kind of metal each tool was expected to cut, and the rate of speed at which it should be operated without failure.

Breach of Contract or Loss Not Covered. In the examination of many claims, the adjuster will find that some condition of the policy has been violated or that the loss is not covered by the contract. When such cases are presented, the circumstances under which the loss occurred should be inquired into, care being taken to avoid waiving any forfeiture or creating an estoppel. If the circumstances indicate an innocent or immaterial violation of contract, or that, through mutual mistake on the part of the insured and the insurer's representative, the form failed to describe property that should have been included, the case should be reported in detail to the insurer, and instructions requested. On the other hand, if the breach of contract is serious or inexcusable or if the loss resulted from a peril not insured against, the adjuster should at once prepare the insurer's defense if he finds the claimant intent on pressing the claim. In dealing with claims that may eventually be paid or compromised on a liberal basis, the adjuster should fix the factors of value and loss under the protection of a non-waiver agreement, in order to avoid the necessity of

returning to the risk should the insurer elect to pay. Exact information can be given in his report, if the matter is so handled, and the insurer will be fully informed when it considers its decision.

If a claimant refuses to sign a non-waiver agreement, the adjuster should leave him to his own devices, unless instructed by the insurer to overlook the breach of condition. The adjuster, however, should learn to present his requests for the execution of the agreement so clearly and diplomatically that they will not be refused except in extreme cases. When there is a refusal, he should await the next move of the claimant.

In some cases there will be several policies covering the same property; some valid, some void. In such cases the loss can be adjusted under the valid policies, and the information gained in the adjustment furnished to the insurers whose policies are void.

In many cases it is well to put value and loss in writing in an adjuster's agreement.¹ In drawing an adjuster's agreement, care should be taken to have it state that it does not affect the liability of the insurer or insurers and has for its sole purpose the fixing of the sound value and the amount of the loss.

Knowledge and Position of Agents. In many cases involving breach of contract or lack of coverage, the claimant will assert that the agent had knowledge, before the loss, of the facts or circumstances affecting liability and should have endorsed the policy to conform with them, or should have asked for cancellation. It is well for the adjuster to question the agent and learn whether he admits having had knowledge before the loss for, if he does, the insurer may be estopped from declaring the policy void. If the law of the state is such that no estoppel exists, the insurer may, nevertheless, decide that the agent will be greatly embarrassed if the claim is not paid and may, therefore, pay the claim without admission of liability. For this reason the adjuster should always include in his report a statement of the agent's knowledge and position in connection with a claim involving breach of contract or lack of coverage.

Formerly, payments made for good-will reasons when no liability existed were termed, and properly, *ex gratia* payments. Insurers are now avoiding the use of the term, because it implies unfair discrimination. Payment without admission of liability is the preferred expression.

¹ For specimens see Appendix D.

Fraudulent or Doubtful Claims. Fraudulent claims result from two actions: (1) the deliberate destruction or disposition of the property by the insured with the intent of collecting his insurance, (2) the willful attempt to collect more than he is entitled to. While a fraudulent claim may be the result of one or both acts, cases resulting from the latter are the more numerous. To commit the first act, the insured must use some foresight and possess sufficient courage to take the attending risks of burning, blowing up, or otherwise destroying the property, sinking it in water, or staging a fake theft. The second is often committed after the loss has occurred and is less dangerous, as in only a few states is it a crime to present a fraudulent proof of loss.

Intentional Destruction of, or Damage to, Property. Claims resulting from fires of fraudulent or doubtful origin are usually handled by one of two methods: (1) furnishing the authorities with evidence to be used in criminal prosecution of the incendiary, (2) collecting evidence that will sustain a plea of fraud should the claim go to suit.

As it is extremely difficult to prove arson, the prosecutions for this crime are comparatively few. Proof is most difficult when the owner is an individual and burns his own property. In such a case, he is ordinarily sufficiently careful to see that there is no witness to the crime, so that nothing but circumstantial evidence can be produced against him. Unless this evidence is conclusive, conviction is impossible. Proof is apt to be easier if the owner employs a "torch," a person to do the actual firing, or if the act is committed by one or several partners or other interested persons, all of whom are aware of the plan to burn the property. A break may occur, resulting in a confession; numbers, in case of arson, being a source of danger to the chief criminal rather than safety. In any case, the evidence necessary to convict must comply with the law's requirement; it must prove the case strictly and beyond all reasonable doubt, a requirement applying in all prosecutions for crime. A claim is rarely defeated by the conviction of the insured in a criminal case.

Willful burning by the insured may be effectively pleaded as a defense in a suit on the policy with less evidence in hand than would be necessary to sustain a criminal charge of arson. Instead of the strict proof required under the criminal charge, a preponderance of the evidence will be sufficient in the civil suit. While a conviction of the insured on the charge of arson will end his chance to recover on the policy, his acquittal will not

necessarily entitle him to collect. The civil court may find that, while the evidence was not sufficient to warrant his conviction in the criminal trial, it is enough to warrant judgment against him in the civil proceedings.

The adjuster should promptly commence to gather evidence when he finds that the fire was of fraudulent or doubtful origin. He should supplement his personal efforts by enlisting through the insurer, if a stock company, the aid of the Arson Department of the National Board of Fire Underwriters, which maintains a corps of investigators for the purpose of running down incendiaries, or, if a mutual company, the investigating services of the Mill Mutual Fire Prevention Bureau of Chicago. In some cases it may be wise to retain the services of an independent professional investigator, and also to enlist the interest of the authorities, though this should generally be done through an attorney, because of his privileged position. If a fire marshal has jurisdiction, there is no objection to conferring with him direct or with arson squads maintained by the police departments in some of the larger cities.

The insured rarely tries to destroy his property by explosion but occasionally blows it up when attempting to set it on fire. If fraudulent explosion is suspected, the investigation should be made in the same general way as when arson is suspected.

When it is suspected that the insured has simulated a theft or other loss of the property, the aid of the police should be sought, and occasionally, also, that of the FBI. Recently, the National Board of Fire Underwriters began making investigations in such cases.

Fraud in Making Claim. Fraud in making the claim itself is generally in the form of overstating the value of, or damage to, the property, or of misstating the cause of the loss. Overstatement may include property never in the insured's possession or removed before the casualty. A building, totally destroyed, may be greatly overvalued by the claimant in the hope that the adjuster will be unable to get sufficient data on its construction and condition to prepare an accurate estimate of its value. Or, because of a serious flaw in the title, the property may have been practically unsalable and, therefore, commercially valueless. Stocks of out-of-date merchandise may be inventoried as staple; and secondhand articles, as new goods. Damage to real or personal property may be grossly overstated in the hope of making the adjustment a profitable transaction. Specifications of building damage may call for replacement

of entire units or sections, when only slight repairs would be necessary to restore the condition existing before the casualty, and when such repairs will be the only work done by the insured after the loss has been adjusted. Damage to personal property is exaggerated by the claim that articles subject to repair are useless, or that merchandise that can be reconditioned, or sold "as is" at reduced prices, is valueless. Personal property, because of its movable nature, easily lends itself to fraudulent claims in which there are listed as stolen or destroyed articles that were not in the premises at the time of the burglary or fire. Claims of this sort are frequent when the damage in any part of the premises is great enough to obliterate the contents. In some of these claims investigation has proved that the entire contents of an establishment had been removed before the casualty and that anything collected would have been clear profit.

Attempts are also made to collect for damage not caused by the peril insured against, as, for instance, old cracks in masonry caused by settling or by inferior workmanship or material. Of like nature are claims involving merchandise previously damaged in transit or in storage, when the claimant, following a fire or other casualty in his premises, attempts to recoup at the expense of the insurance companies.

In handling doubtful claims, the adjuster should form an opinion whether it is wiser to litigate or to compromise. In forming his opinion, he must bear in mind the uncertainties of all litigation, particularly cases involving questions of fact. This opinion should then be submitted to the insurer in the form of a recommendation, unless the adjuster is empowered to act on his own authority. When so empowered, he should prepare his evidence and place it in the hands of an attorney, if he decides to litigate; or make a tactful or forceful presentation to the insured if he hopes to compromise. Bureau or independent adjusters are seldom vested with general authority to act in doubtful cases. They should report fully and act on specific instructions. Reports should cover the evidence obtainable to support the adjuster's conception of the facts, as it is ordinarily more difficult to establish the facts than to determine the applicable law.

Tact and Method. To gain his objectives, the successful adjuster employs tact, a large amount of common sense, and method. Tact cannot be taught to the person who does not possess it; it is a quality of mind. It enables its possessor to deal naturally with other persons so that the maximum degree of cooperation is obtained. Method is developed as the

result of experience and study; much of it can be learned from others. Method supplements tact, for the intelligent claimant, seeing the work of the adjuster proceeding without lost motion, has no reason to become impatient; and the grasping claimant, who finds the adjuster creating increasing difficulties for him yet keeping within the terms of the insurance contract, is compelled to respect his adversary.

Dispatch. It is essential that loss work proceed without being delayed by unnecessary inquiries, which not only reduce the adjuster's ability to handle a normal volume of work but also tend to irritate claimants, sometimes to the point where they retaliate by putting obstacles in the path of a reasonable adjustment. While the proceedings of an adjustment are not to be governed by the rigid rules of a trial court, it is well to keep the proceedings fairly close to the matter in hand, with few wanderings after the immaterial, the irrelevant, and the incompetent.

Acceptance or Verification. In order to eliminate unnecessary delay, the adjuster should learn what information can be accepted and what must be verified. He can observe with profit the work of a paying teller, who cashes without hesitation nine out of ten checks presented to him but who ordinarily turns down those in excess of the drawee's balance. In similar fashion, the adjuster should learn to dispatch the mass of work that must pass before him, accepting the patently correct answers or data given him by claimants, but holding up for investigation those that require it. The teller has an advantage over the adjuster, in that he deals with a slowly changing group of customers, while the adjuster is in contact with new claimants about many of whom he can get only meager information. Nevertheless, with increasing experience the adjuster will learn much and, if he has sufficient intellectual capacity, will eventually develop the ability to discover many irregularities almost as soon as they are presented. While he will never become perfect in this respect, he should become proficient to such a degree that his failures will be only those that other intelligent, experienced men would ordinarily make under the same circumstances.

In reaching a decision to accept a statement or to investigate it, the adjuster should, consciously or otherwise, test it by one or more of the methods that are everywhere used in business dealings. He should consider the reputation of the person making the statement, the relation of

the statement to other circumstances, and the probability of its accuracy as indicated by past experience.

Reputation. An active wholesaler was the executor of a large estate and was charged with the duty of managing a number of tenant dwellings. He was a man of the highest reputation for integrity and ability. An adjuster was assigned a loss on one of the tenant properties but, because of previous assignments, could not give it immediate attention. He called the wholesaler by long-distance telephone, inquired as to conditions, and when the wholesaler offered to have the repairs made by his own workmen without supervision or profit charges, immediately accepted the offer. This action resulted in an economical and satisfactory adjustment, as was developed by a checkup while the work was in progress. It was taken by the adjuster because of the reputation of the claimant and was justified by the result.

Probability. The case of a country hotelkeeper furnishes an instance of the methods used by men outside of adjustment work to judge probabilities. For a number of years this man operated a hotel and a feeding stable adjacent to a mountain tannery some 20 miles beyond the railroad terminus. A fire occurred in his neighborhood, destroying a dwelling. In due course a youthful adjuster appeared, being driven in a livery rig. The adjuster inquired for the whereabouts of the fire and the insured and drove on, later returning for dinner and to have the horses fed. When he offered to pay his bill, the hotelkeeper could not change the note tendered. The adjuster was in a quandary for the moment but suggested that he would leave the amount due with the liveryman at the railroad station, to be sent up when convenient, or he would pay by check, adding that he felt embarrassed in offering his check to a person who had no means of knowing whether it would be good. The hotelkeeper answered without hesitation that the check would be entirely acceptable and that he would run no greater risk in accepting it than the insurance company ran in employing the adjuster. Thus the hotelkeeper accepted the check because the circumstances of the occasion led to the conclusion that it would be good.

On the same principle the experienced adjuster will approve a claim for first-class material in a building, which, because of the neighborhood and occupancy, would ordinarily be built of such material. Likewise there

are some commodities whose grades are determined largely by the dates they are received for storage, a condition warranting the assumption that when a claim is presented the grades may be accepted, if in keeping with the dates on the warehouse receipts.

Experience. The last of the ordinary tests is experience. The adjuster is constantly observing, comparing, and remembering. He accumulates an increasing store of knowledge, some of which becomes so buried in his memory that he uses it unconsciously. From constant observation of the three dimensions of objects, the relations of bulk and weight, and the relations of quantity and value, he develops the power of estimating values and damage, sometimes to a remarkable degree. In many cases an inventory or estimate presented by a claimant will be mentally checked with the surroundings and circumstances of the casualty and, from past experience, will be felt to be correct or at least reasonable. On the other hand, quantities, prices, or even calculations may be felt to be incorrect long before there is a real check of them.

A case of this sort was presented by an item of high-grade screws that had been wet by the discharge of a sprinkler and were afterward dumped into a bucket of oil to prevent rusting. While the aggregate value stated by the claimant was small, the adjuster felt that the quantity listed was twice as great as it should be. The claimant frankly stated that the quantity had been taken from a stock card, as the screws were too small and too numerous to count. The adjuster suggested weighing the screws and then weighing a gross of them as a short method of verifying the quantity. To the surprise of the claimant, the adjuster's guess missed the result of the test by less than 5 per cent.

Search for Information. When hunting for information, the adjuster should continually question all persons who might supply it or help him find it, except in cases where secrecy is important. The results to be obtained from pushing an inquiry along the line suggested by even a single clue are often surprising. Much effective work by the police and other investigators is done in this fashion; answers to questions are constantly checked up, and new questions based on the findings. How a single piece of evidence may lead to the solution of a problem is well illustrated by the following incident.

The manager of an insurance company suffered the loss by theft of a blooded dog. The occurrence was investigated by the police, who could

do no better than report that, a day or so after the theft, a dog of the same general description had been seen in the principal railroad station of the city at about noon. The manager had in his employ an ambitious clerk and, as this clerk knew the dog, the manager asked him to take up where the police left off. The clerk went to the station and questioned the employees. At first he seemed to get nowhere, but by persisting he finally found the gateman, who had seen the dog that had been reported to the police. The day and the hour were fixed as nearly as possible, and the questioning turned to what became of the dog. The gateman recalled that the dog was led through his gate, making it probable that he was taken aboard a train leaving shortly after noon.

This train the clerk boarded. Beginning at the baggage car, he questioned the members of the crew and all male passengers. One of the latter had noticed the dog but was not certain when he was taken off the train, suggesting, however that the clerk inquire at a certain station, some 15 miles out. Here the clerk alighted and questioned the ticket agent but with negative results. He then decided to look up every dog owner in the little village, on the theory that one of these might have noticed the appearance of a strange dog in the neighborhood. Eventually he found the trail. A man, who had seen the dog, described his markings and collar accurately and said that he had seen him taken off the train at a station some 5 miles back. At that station the clerk learned from the ticket agent the whereabouts of the person who had the dog and in a few minutes found the animal tied up in an outhouse. Thus constant questioning brought results.

Some 10 years later the clerk had become an adjuster and was confronted with the problem of finding a process to clean a semiglazed salmon brick wall of a 20-story building, the wall having been blackened by dense smoke from the burning of an adjoining structure. The usual sources of information failed to produce anything, whereupon the adjuster had a number of bricks cut out of the wall and shipped to men in other cities, asking for suggestions. He also reported in detail to the companies interested and made it a point to question every builder, painter, and mason he could reach. For some weeks he made no progress, but one day a locomotive engineer and a Negro laborer walked into his office and asked for one of the bricks. The laborer spread some paper on the floor, got a bucket of warm water from the service room, opened a package of pre-

pared material, and proceeded to scrub clean the brick that had resisted all previous attempts except sandblasting, which, of course, destroyed the glaze. A few days later a letter came from a distant city suggesting a visit to a cleaning concern that was at work on one of the ornate structures there. The adjuster took a brick with him, which the head of the concern cleaned with a liquid preparation easier to apply than the preparation of the locomotive engineer. As ample cost data were to be had from the cleaning concern, the cost of cleaning the wall was quickly and satisfactorily established. Here, again, constant questioning led to the information sought.

Attitude of Claimant. Passing from methods of testing statements or developing information to those of handling persons, the adjuster will find that a claimant is generally in one of three attitudes at the time of the first meeting: (1) He will be uncertain as to his loss but confident of fair treatment and willing to cooperate. (2) He will contend for decided views of his own but will abandon these views, on being convinced by the adjuster that they are incorrect. The adjuster also must overcome any emotional conflict arising during the negotiations. (3) He will be intent on carrying his point, regardless of demonstration, argument, or appeal.

While individual claimants, even in the same attitude, will require different treatment to prevent arousing antagonism, there are certain methods of negotiation that ordinarily fit the different attitudes and accomplish good results. When these are used with tact and common sense, a high average of success is attained.

The Claimant without Definite Ideas. The claimant uncertain as to amount of loss but confident of fair treatment should be treated fairly and dealt with openly. The adjuster should do his utmost when dealing with a claimant without definite ideas to see that no improper figures or positions are suggested that the claimant might adopt. The adjuster should, step by step, help such a claimant toward a true statement of his claim, as by this method a proper adjustment is often reached without the parties being at any time in real disagreement. Following this method, the adjuster commences to negotiate before the insured has presented a claim and consequently does not feel that he must try to maintain definite figures. This method practically eliminates the danger of the adjustment becoming a contest that might prove difficult to bring to a proper ending.

To use it requires, as a rule, some added time and trouble, but the results justify both. If, for instance, a builder or other repairman must be consulted, or outside advice on prices obtained, it is incumbent on the adjuster to be present with the insured at all consultations and, by a display of competence, fairness, and tact, prevent advisers from suggesting improper figures or procedure. A tradesman will naturally favor his customer in preference to an occasional buyer such as the insurer. To gain favor he may even suggest that, where there is an opportunity, the insurer should be induced to pay for work or articles that will be needed in the future, if it can be made to appear that they were rendered useless, instead of merely being damaged. Such a possibility can often be avoided if the adjuster will tactfully limit the discussions to the cost of restoration or repair of property actually lost or damaged.

The Positive Claimant. A different method is to be followed when the adjuster finds the claimant to be a person with definite ideas and ready to contend for them. If an examination indicates that his ideas are erroneous, the adjuster's task will generally be expedited by selecting one of the several methods ordinarily used in all walks of life for the settlement of differences of opinions. When it cannot be demonstrated that the loss is materially less than the amount claimed, the adjuster must prepare his evidence and present his case, adapting his method to the particular claimant, whose characteristics and surroundings determine how arguments or appeals should be formulated. The claimant may be of the type best handled by turning over to him all estimates, or other data, letting him reach a proper conclusion on his own initiative. Or he may have little capacity to think alone and may require much argument to convince him. He may be taciturn or talkative, quick or slow in deciding, all of which will have some bearing on how arguments should be presented to him, or his own arguments answered.

Answering Faulty Arguments. Apart from the manner of negotiation demanded by the personality of an individual claimant, the adjuster will find that many advance the same faulty arguments that can be easily answered. These come up so often that the answers become mechanical. For instance, many claimants think that the measure of value is the original cost. The conventional questions used to start such claimants thinking differently direct their thoughts to the subjects of replacement

cost, the wearing out of property, and the value of gifts. When such questions are shaped to fit the particular situation, they often open the way that leads toward a proper conclusion.

In like manner an argument may often be preceded or followed by a striking illustration that will carry it home. Thus, an engineer listened to a presentation to referees of a claim covering the value of a large machine. The claimant argued that it was in first-class order, that with the application of the specified horsepower it would still give its rated production, and that therefore it was worth the cost of replacement with a new machine. As the engineer was prepared to show that the machine was of a type obsolete at the time of the loss and consequently worth no more than its price in the secondhand market, he sought for some comparison with which to impress the referees. He had seen a few days before a picture of the original DeWitt Clinton locomotive alongside one of the giants used to haul the Twentieth Century Limited. At the close of his own presentation, he produced a picture of the DeWitt Clinton, and remarked that it would still haul as many coaches as ever, that it had been kept in excellent repair and would probably remain effective as long as the New York Central saw fit to keep it in order. But he argued that certainly no one would today build such an engine for actual railroad service and that the engine itself could be sold only for scrap, or for a curiosity. His method was effective.

Committing the Claimant to the Facts. In many cases the adjuster does not argue with the claimant but, by committing him to known facts, establishes a favorable position that either fixes the amount of the loss or determines liability. When this is done, the claimant ordinarily comes to terms after thinking over his situation or seeking advice.

A case of this sort resulted from a mercantile fire in iron-safe-clause territory. The merchant admitted that the fire occurred after the closing of business for the day, that he had left his inventories and some of his other records outside of his safe, and that they had been burned. The adjuster very frankly told him that under the circumstances no claim could be enforced and that the company would be within its rights if it elected to refuse payment. He then prepared a written statement of what the claimant had just told him, asked the claimant to read it over and, if it was correct, to sign it. This the claimant did. In the whole transaction there was neither argument nor appeal, the adjuster realizing that none

was necessary, as the facts amply proved that no liability existed under the policies. The signed statement merely recorded what the insured admitted and was forwarded to the insurer with a full report and request for instructions. The insured eventually proposed a compromise which the insurer accepted.

Appeals to the Emotions. Another method effective with certain types is a direct appeal to the emotions. This method is also serviceable in cases in which the amount of loss is in doubt and the end sought is a reasonable compromise. Appeals to the claimant's sense of fairness, to the desire to appear reasonable, to meet concession with concession, all play on the same feeling. If this feeling is strong in the claimant, it will often move him to cooperation or accord. In some cases it may be necessary to arouse self-interest. This should be done by presenting the advantages to be gained by accepting the figure or method of settlement offered; or, in negotiating with the grasping claimant who must at times be dealt with harshly, the troubles he may expect to encounter if he continues to be unreasonable.

A retail merchant with a damaged stock on his hands may in some localities greatly stimulate his business by a properly handled fire sale. If the adjuster finds he is making little headway toward settlement by use of ordinary demonstration and argument, he may well abandon them and turn the merchant's attention to the probable outcome of a fire sale and the new customers to be attracted by it. With the claimant who attempts to overreach, it is often effective to suggest the expense, delay, and uncertain outcome of the litigation he threatens. To do so may be distasteful, but sometimes it is the only method that will give results.

Impossible Claimants. There are some claimants on whom argument and appeal are alike wasted, the pigheaded and the unscrupulous. These are to be put under pressure and kept under until they yield. The first type cannot understand decency; the second is apt to think it indicates weakness. Severity, delay, or studied demands difficult to comply with but authorized by the policy may at length bring these types to terms. It is unfortunate that they succeed in getting insurance.

Failure of Adjuster's Efforts. In spite of all efforts and methods, the adjuster will fail in a number of his attempts, and on leaving the claimant must consider the advisability of employing assistance. Before doing so, however, it will be well to give the claimant a chance to consider the

final offer at a time when the adjuster is not present, as there is always a chance that personal antipathy or antagonism prevents the claimant from accepting a fair or advantageous offer. Something in the adjuster's personality may cause the particular claimant to resist every proposal, even those he inwardly agrees to and would accept but for the interference of his feelings. In order, therefore, to see whether this is the case, the adjuster may well try it out by writing the insured some days after his departure, repeating his offer in carefully selected language, and enclosing either an adjuster's agreement or a proof of loss for the claimant to execute. In many cases the document will come back signed by the claimant, and the controversy will be ended.

Introducing a Third Party. The idea underlying the method discussed in the preceding paragraph is also used when the adjuster, after exhausting his resources, calls in some third person to help him. Often this person will do no more than restate the offer already made but will nevertheless bring about its acceptance. Two or more adjusters working on the same loss can often make rapid headway by intelligent use of each other when the final negotiations are started.

Use of Policy Requirements or Options. When the last effort fails, the unwarranted demands of a claimant must still be resisted, and the policy contract enforced, if possible, by using one or more of its requirements or options. The right selection of option or requirement in such a case may checkmate an importunate claimant, or even bar recovery by one who has avoided his contract but attempts to brush aside its conditions. It is important that the adjuster use all the generalship of which he is capable to handle successfully this phase of his work. To do so he should add to a familiarity with the policy itself an elementary knowledge of trial procedure and the preparation of cases for trial, as what he does may eventually come before the courts if the claim is litigated.

It will not be amiss to emphasize by repetition some requirements already discussed. In all cases the insured must protect the property from further damage, separate, put in order, and inventory personal property, and file proof of loss. Some claimants seek to evade the performance of these requirements. Others attempt to obscure the situation and object to producing books and papers or plans and specifications until these are specifically demanded in writing, and the demand is followed up. All the preceding requirements can at times be enforced in a manner calculated

to make the overreaching claimant somewhat less confident of gaining his end.

In some doubtful or fraudulent cases, the insured becomes a fugitive from justice and leaves his claim in the hands of an assignee, or in other cases for later presentation by a receiver or trustee in bankruptcy. In any of these cases, collection can be effectively delayed by a demand that the insured appear at or near the scene of the loss and submit to examinations under oath. Ordinarily he will fail to appear, being afraid of arrest.

Trouble may arise because of commingled salvage. In some claims for loss on cotton which has been stored in public warehouses, a group of claimants will attempt to make excessive collections, or some local interest will attempt to unload on the companies the expense of an unwarranted receivership for handling the salvage. In such cases, an able adjuster will not hesitate to propose one of two courses. If the claimants will be reasonable and allow the adjuster to control the handling of the salvage, he will settle by paying the respective sound values as adjusted, taking assignments to the respective interests in the commingled salvage. On the other hand, if excessive claims are to be insisted on or the salvage is dissipated by unnecessary receivership proceedings, he will refuse to make any adjustments until the tedious work of determining the respective interests in the commingled salvage has been finished. He will then pay only the loss sustained, leaving the claimants to collect their salvages from the receivers, when and as they may. A clear presentation of the two alternatives will usually be effective.

Claims under policies void as to the insured but valid as to the mortgagee can often be blocked, as far as the insured is concerned, if the adjuster comes to terms with the mortgagee and thus deprives the insured of his support.

Excessive claims may be met by a tender of repair or replacement, though this is much too great a risk for most cases, the better course being to gather good evidence and await suit, or demand appraisal, as circumstances dictate. Once an insurer commences to repair or replace, it assumes all risks and must finish the work even if it costs several times as much as the amount of the policy. In choosing an appraiser to act after adjustment negotiations have failed, only the most capable must be chosen, as the atmosphere of the appraisal will be hostile, and the appraiser will have a difficult task.

The last requirement usually invoked is the right to examine the claimant under oath. He may, by this procedure, be committed to known facts, may be required to reveal what he has previously concealed, or may be led to infer that the person examining him is in possession of evidence that makes his case hopeless. The use of this requirement is often highly effective and, in spite of the growing practice of using attorneys to enforce it, can often be used by adjusters with excellent results. The following instances are good examples.

Two adjusters working on a mercantile loss saw the claimant slyly unpin a freight bill from an invoice and conceal the freight bill among other papers. In time the adjusters managed to get hold of the bill and found that the goods had really been delivered to another town where the merchant operated a branch store. In due course one of the adjusters put the claimant under oath and, among other questions, asked him about the freight bill. The claimant burst into profuse perspiration, his lawyer adjourned the examination, and in time the claim was compromised for considerably less than had been at first asked.

In an examination in another case, held to determine whether liability existed because of doubtful compliance with the terms of the iron safe clause, the secretary of the claimant corporation was compelled to admit, when questioned by the adjuster, that certain sales records had been left out of the safe on the night of the fire and could not thereafter be located. This admission established a violation of the policies.

In still another case, the adjuster was satisfied that a certain record was spurious and had been written up after the loss. He held an examination and so framed his questions as to intimate this to the insured. The insured's trustee in bankruptcy afterward sued on the policy, but when the insured took the stand to testify, he feared what the defense might produce and consequently admitted on cross-examination that he had written up the suspected record after the loss.

Preparation for Litigation. The final resort, when negotiations fail, is litigation, an uncertain and expensive course of action. Careful preparation for trial and wise selection of counsel are essential, when litigation is unavoidable. Preparation includes an avoidance of waiver or estoppel, as well as the gathering of evidence, for an otherwise perfectly prepared case may be lost on an allegation of waiver, supported by just enough testimony on the insured's behalf to carry it to the jury. It is all-important

that the adjuster handling doubtful claims possess a "competent knowledge of the laws of that society in which we live" in order that, after exhausting his own resources to defeat or reduce an unwarranted claim, he may place its defense in the hands of the insurer's attorney, with every point covered and with the record of his dealings with the insured free from actions committing the company or waiving its grounds for resistance.

Notation of Data. Preparation should commence with the first investigations of the claim. Whether or not litigation is then expected, the data passing through the adjuster's hands should be so noted that the notes will enable him on future occasions to recall how the data compared with the property, or how the property itself appeared. If the claim gives early promise of getting into court, it may be well to make separate sheets for the separate items and to note on the sheets in great detail whatever information will be of service in case of trial. In one now famous case, the attorney suggested to the adjuster that a schedule including a lot of ill-selected and almost valueless machinery be rewritten, allowing half a page after each entry, and that following the entries the adjuster accurately describe each article after examining it. When the claimant finally sued, he was so successfully cross-examined from the prepared schedule that the jury returned a verdict within an hour of exactly the amount offered by the adjuster.

Reports and Testimony. To supplement original estimates, schedules, statements, or other data, the criticisms of such outside assistants as builders, engineers, salvors, accountants, or others should be put in writing as memoranda, or preferably as signed reports, and kept safely. Likewise the statements of witnesses should be written out and filed. Such statements are often to be had only by patient and persuasive work on the part of the adjuster, as in many cases the persons able to give the testimony are neighbors of the insured and dislike to appear against him. In small towns there will often be a factional division of the population, one being hostile to the insured. Care must be taken to make a thorough examination of witnesses offering testimony under such conditions, as it is often inaccurate and inspired by animosity. There is some danger in taking written statements from witnesses. While it is ordinarily best to hear their stories and thereafter to record them in the shape of affidavits, signed statements, or letters, there are some who should be asked only for oral statements, these to be made in the presence of a reliable third party.

In some cases a witness who signs a statement immediately talks about it and, as a result, gets the insured on his trail to secure a copy of it.

Function of Adjuster at Trial. It is seldom wise for the adjuster to testify. Ordinarily it is far better to provide credible, disinterested witnesses to present any necessary testimony, and for the adjuster to be present at the trial as the defendant's representative, completely informed on the case and ready to aid the attorney.

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Appendix A. Sworn Statement in Proof of Loss

Form recommended by the
National Board of Fire Underwriters
June, 1950

SWORN STATEMENT IN PROOF OF LOSS

§ AMOUNT OF POLICY AT TIME OF LOSS POLICY NUMBER
 DATE ISSUED AGENCY AT
 DATE EXPIRES AGENT

To the
of
At time of loss, by the above indicated policy of insurance you insured

against loss by to the property described under Schedule "A," according to the terms and conditions of the said policy and all forms, endorsements, transfers and assignments attached thereto.

1. Time and Origin: A loss occurred about the hour of o'clock M.,
on the day of 19 . The cause and origin of the said loss were

STATE KIND

2. **Occupancy:** The building described, or containing the property described, was occupied at the time of the loss as follows,
and for no other purpose whatever:

3. **Title and Interest:** At the time of the loss the interest of your insured in the property described therein was
 No other person or persons had any interest therein or
incumbrance thereon, except:

4. **Changes:** Since the said policy was issued there has been no assignment thereof, or change of interest, use, occupancy, possession, location or exposure of the property described, except: _____

5. **Total Insurance:** The total amount of insurance upon the property described by this policy was, at the time of the loss, \$_____, as more particularly specified in the apportionment attached under Schedule "C," besides which there was no policy or other contract of insurance, written or oral, valid or invalid.

6. **The Actual Cash Value** of said property at the time of the loss was \$_____

7. **The Whole Loss and Damage** was \$_____

8. **The Amount Claimed** under the above numbered policy is \$_____

The said loss did not originate by any act, design or procurement on the part of your insured, or this affiant; nothing has been done by or with the privity or consent of your insured or this affiant, to violate the conditions of the policy, or render it void; no articles are mentioned herein or in annexed schedules but such as were destroyed or damaged at the time of said loss; no property saved has in any manner been concealed, and no attempt to deceive the said company, as to the extent of said loss, has in any manner been made. Any other information that may be required will be furnished and considered a part of this proof.

The furnishing of this blank or the preparation of proofs by a representative of the above insurance company is not a waiver of any of its rights.

State of _____

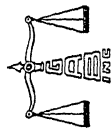
County of _____ Insured _____

Subscribed and sworn to before me this _____ day of _____ 19____

_____, Notary Public

Appendix B. Fire, Inland Marine, Automobile, and Liability Loss Report Sheets Used by General Adjustment Bureau

CONFIDENTIAL



BUREAU LOSS No.

Fire Sheet Number One

Data to be shown in all letter headings

INSURED
PROPERTY INVOLVED
(Such as "buildings", "machinery", "stock", "general form", "U & O", etc)
LOCATION—Street and No.
CITY OR TOWN STATE
DATE OF LOSS 19..... M.....
AGENT OR BROKER WHERE LOCATED

ENCLOSURES

NAME EACH SPECIFICALLY AND THEN
THE FOLLOWING INFORMATION:

SOUND VALUE	\$
LOSS	\$
INSURANCE	\$
CLAIM ON INSURANCE	\$

**REMINERS TO
INVESTIGATE
AND REPORT**



INSURANCE

Complete list should accompany all preliminary reports.

Check carefully and record all forms, endorsements, assignments, limitation clauses, warranties, etc., of the original policies.

If policies not available and data obtained from other sources, report should so state.

INSURED

Co-Partnership or Corporation

Names of Partners, Officers

Where Incorporated — Capital Amount Paid In?

Present Financial Condition

*Give Insured's Business and Fire History

Investigate Thoroughly

Report Fully

Previous Residence

Moved Since Fire? Where?

*Previous Insurance Losses Other Than Fire and Lightning

RISK

*Is Public Fire Hydrant Within 500 Feet of Risk?

*How Far Is Risk From Public Fire Station?

*Construction (Brick, Frame, Ironclad or Fire-proof), Etc.

Report Fully on Occupancy of Premises and Physical Conditions of Risk

Automatic Sprinklers

Investigate Any Question of Obsolescence

Offers to Sell for Less Than Claim

***ALSO FOR NATIONAL BOARD A. B. REPORT**

ORIGIN

Insured's Theory
Adjuster's Theory
If Lightning, was Building Rodded?
Investigation by Authorities and National Board
If Communicated Investigate Thoroughly at
Source and Report Fully Individual's Identity
and Record
In All Suspicious Cases Refer to Unsatisfactory
Conditions, as Follows—"We Have Been In-
formed," "We Understand," "It Is Reported,"
Etc.

POLICY VIOLATIONS

Investigate Agent's Knowledge
Insured's Statement and Explanation
Report Fully

**ADJUSTMENT and
GENERAL REMARKS**

Extent of Fire
State Names of Experts, If Any, Consulted by
Adjuster
Unusual Smoke or Water
Insured's Claim, Amount
Insured's Attitude
Was Insured Represented by Public Adjuster or
Attorney? Give Name

State Frankly Whether Adjustment was Satisfactory. If Not, Reasons
If Experts Were Employed or Appraisal Had, Report Reasons

SCHEDULE OF INSURANCE

BUREAU LOSS No. _____

INSURED AND LOCATION _____

AGENCY AND LOCATION	POLICY NO.	POL. TERM		Forms Clauses Changes	COMPANY AND LOCATION

FORMS, CLAUSES AND CHANGES:—MEMORANDA—

SUBROGATION

Should Subrogation Receipt Be Taken?

If Yes, Submit Full Written Report

Did You Take Subrogation?

How Is It to Be Handled?

Have You Fully Investigated Questions of Wrongdoer's Liability?

Have You Investigated Wrongdoer's Ability to Pay?

Is He Protected By Insurance?

Have You Secured Statements From All Witnesses, Diagrams, Photographs, Etc.?

SALVAGE

If Taken Over, Report Reasons Therefor Fully Kind of Stock Involved, Principally?

Nature of Damage and Its Condition

How Is It Being Handled?

Report Approximately Estimated

Net Returns and Date of Remittance Therefor

TITLE and ENCUMBRANCES

All Irregularities Should Be Reported to Company for Instructions. See "Policy Violations" Ownership, Title. If In the Name of a Woman, Give Status, Married, Single, Divorced, Widow. How Acquired, Etc.

ADJUSTERS' INSTRUCTIONS

So that our adjusters might be personalities in the work and hence have incentive to put forth their best, we have followed the practice of direct reporting by adjuster to Company. That the plan has been successful is obvious from every viewpoint. Undoubtedly you would be surprised to know that your own work is recognized and known to Company loss men, many of whom maintain memorandum files on the character and work of individual adjusters.

Study this Sheet Number One and be sure that your report contains all of the suggested data applicable to this case. Review this sheet frequently. Thorough familiarity with it will aid you materially in obtaining necessary information at the time you handle the adjustment and it will assist you in making a comprehensive and creditable report. Exert every effort to avoid delay between execution of proof of loss and its transmittal to the Company. If there is a delay, explain it in your report.

When proof is executed by others than the named insured, be sure to attach adequate evidence of signer's authority. This should show present authority of the representative to execute proof and receive money. Evidence merely of past appointment is inadequate.

Never fail to report the reason for incurring outside expense.

Your value in this work is manifested principally by your closing papers and reports. Take pains to have your reports reflect the intelligent handling the case received. Be sure every report and bill for service contains complete identifying data, i.e., name of company—policy number—name and location of countersigning agent or broker.

IMPORTANT PROCEDURE

Call on the agent before visiting loss. It is strongly recommended that you call on him immediately after leaving the loss, whether it is adjusted or not. If it is a troublesome case and not adjusted, seek his cooperation. This procedure will usually avoid complaint to the Company and should earn the agent's goodwill.

Complete your proof of loss and have it executed by the insured before leaving him. The growing practice of having proofs filled out in the branch office and mailed to the insured adds to the work in the office, causes delay and hence invites criticism. Too, it increases our cost of operations.

Avoid unnecessary trips by giving advance notice or making appointment.

Do not employ experts before seeing the loss and determining the need therefor. Never employ them unless it is essential to a satisfactory adjustment.

Discourage the making of estimates and schedules prior to your arrival. Adjuster and insured should cooperate in their preparation. Then they will usually be correct in the first place and eliminate controversy and unpleasantness and bring the case to a conclusion in lesser time.

Keep the Company representative informed of developments on delayed adjustments.

Be conscious, always, that to all insurance representatives you are the Bureau and to all claimants you are the insurance business. Dignify your work and develop a reputation for equity and courtesy. More than any other kind of work, ours is a test of patience, composure, gentleness, good character, and of our ability to intelligently handle people. We have to meet many trying situations and conditions but they are all an essential part of our work and each one, if properly handled, fits us for better treatment of the next.

(Title and Encumbrances—continued)
 Standard Mortgage Clause or Loss Payable
 Clause? Describe
 Attachments, Garnishments, Assignments.
 (Names, Etc.)
 Have You Referred Attachments, Etc., to Attorney? Name
 Purchase Contract, If So
 Date Executed?
 Principal Sum
 Payments
 Present Equity
 Default
 Who Was In Possession at the Time of the Fire?
 Report Fully

RECOMMENDATIONS

Make Specific Recommendations as to Insured
 and Risk in Every Respect

Report Fully

PAYMENT

Never fail to give your Company the benefit of any doubt. Be specific in your recommendations. Do not recommend prompt payment but rather that it be paid at the Company's discretion, unless by agreement with insured, prompt payment should be recommended.

If there is any doubt at all as to the origin or the honesty of the claim or the business or character and history of the insured or his relatives, or where the loss record of the town, community or agency is bad, you should recommend withholding for an appropriate period and state your reasons therefor.

As an illustration—"Withhold Payment Until Claim Matures" or "Pending Further Report from Adjuster" or "Awaiting Outcome Investigation by National Board or Local Authorities" or "Upon Release or Dismissal of Attachments, Garnishments or Suit, Letters of Administration or Other Proof of Authority or Documents, Etc."

Instruct Company fully of any condition to be met at time of payment such as Subrogation, Bill of Sale, a Satisfaction, etc. If you have taken proper agreement for cancellation without return premium, the Company should be advised fully. Should lost policy receipts be taken?

CONFIDENTIAL

LOSS NO.

Inland Marine Sheet Number 1

ADJUSTERS INSTRUCTIONS: Inland Marine Sheet Number One has been developed because of the lack of uniformity in Inland Marine Policies. At no time should you take so-called "standard conditions" for granted—the policy should be examined closely in every case. Sheet Number One cannot possibly provide for every situation which may confront you—Inland Marine Losses are too varied. It can only provide a guide—it is not intended to remove ingenuity or individuality. Whenever you are in doubt never hesitate to inquire before you act. Your value in this work is manifested principally by your closing papers and report. Proper use of this sheet cannot help but lend thoroughness to these documents and reflect the intelligent handling of the case received. Your work is recognized and known to Company Loss Men, many of whom maintain memoranda files on individual adjusters.

COMPANY

NAME AND ADDRESS OF BROKER OR AGENT

INSURED

ADDRESS

Tel. No.

POL./CERT. NO.

Inception Date

Expiration Date

TOTAL AMT. OF POLICY

Item Involved

PROPERTY COVERED

HAZARDS COVERED.....

..... } Co-Ins.
 } Deductible.

Date of Loss.....
 A.M.
 P.M.

Location of Loss.....

Date First Visited Loss Who Was Interviewed

Report to

IMPORTANT PROCEDURE

Contact the AGENT or BROKER before and after visiting the loss. If troublesome case, seek his cooperation. This procedure will usually avoid complaint to the Company and should earn the agent's and broker's good will.

Avoid unnecessary trips by giving advance notice or making APPOINTMENT.

Do not employ an EXPERT before seeing the loss and determining the need-therefor. Never employ them unless it is essential to a satisfactory adjustment.

Send PRELIMINARY REPORT to Company as soon as possible after your first visit.

Keep the Company informed of developments and especially on delayed adjustments.

ENCLOSURES: The following is a list of enclosures most frequently used. They have been separated into various categories suggested by the type of policy involved. Determine the category into which your loss falls and study this list for the enclosures you will need. Check off those required in each case—this will prevent overlooking essential documents. Circumstances of each case will indicate what other papers are needed: This will include copies of correspondence which will be of interest to the Company, such as subrogation letters, advertisements, offers of rewards and other similar items.

Group I—Enclosures common to Inland Marine Adjustments:

- ☐ Proof of Loss
☐ Statement from insured, witness or claimant
☐ Adjuster's Statement of Loss
☐ Certificate of Satisfaction
☐ Estimates of repairs or replacements

- ☐ Invoices—original or certified copies
☐ Loan Receipt
☐ Non-Waiver Agreement
☐ Power of Attorney
☐ Copy of Police Report

Group II—TRANSPORTATION POLICIES

- { **A.** Truckman's Legal Liability Policies
B. Owner's Cargo and Transportation Policies
C. Trip Transit Policies
D. Parcel Post & Registered Mail Policies

Group I enclosures, when pertinent, and the following:

- ☐ **A, B, C**—Bill of Lading or Shipping Receipt (original)
☐ **A, B**—Original or certified copy of invoice
☐ **A**—Original or copy of Manifest
☐ **A**—Driver's Statement (Form I-M)
☐ **A**—O.S.&D. Report (Form 2M)
☐ **A, B**—Owner's or Consignee's verification form (Form 3M)
☐ **A, B**—Shipping Clerk's Affidavit
☐ **C**—Order for Services
☐ **C**—Loading Inventory with exceptions

- ☐ **C**—Originating Warehouse Tracing Form
☐ **C**—Warehouse Inventory
☐ **C**—Insurance Certificate
☐ **D**—Postal Tracer
☐ **A, B**—Receiving Clerk's Affidavit
☐ **A, B, C**—Copy of Owner's written claim against truckman
☐ **A, B**—Bond of Indemnity
☐ **A, B, C**—Freight Bill (original or certified copy)
☐ **B**—Consignment Memo—original or certified copy
☐ **D**—Government Receipt

Group III—PERSONAL FLOATERS

- ☐ E. Personal Effects Floater Policies
- ☐ F. Personal Property Floater Policies
- ☐ G. Personal Fur & Jewelry Floater Policies
- ☐ H. Silverware Floater Policies
- ☐ J. Tourist Baggage Floater Policies

Group I enclosures, when pertinent, and the following:

- ☐ E, F, G, H, J — Receipts given by Bailees
 - ☐ E, F, G, H, J — Copies of letters filed on Third Parties Responsible
-

Group IV—Bailee Customers' Policies

- ☐ K. Rug & Carpet Cleaner's Policies
 - ☐ L. Dyers' & Cleaners' Policies
 - ☐ M. Laundry Bundle Policies
 - ☐ N. Furriers' Customers Policies
-

Group I when pertinent and the following:

- ☐ K, L, M, N — Customer's Statement (Form 5-M)
 - ☐ K, L, M, N — Receipt or certificate issued by insured to the customer
 - ☐ K, L, M, N — Customer's Release
-

Group V—SPECIAL FLOATER POLICIES

Most enclosures in this group fall under Group I plus those dictated by circumstances developed during the adjustment

- ☐ Fine Arts Policies
- ☐ Installment Policies
- ☐ Physician's, Surgeon's and Dentist's Instrument Policies
- ☐ Jeweler's Block Policies
- ☐ Salesman's Sample Policies
- ☐ Contractor's or Processor's Floater Policies
- ☐ Miscellaneous Policies

INSURANCE: Complete list should accompany all preliminary reports. Always show the Policy Number, Name of Company and Name and Address of Agent or Broker. Check carefully and record all forms, endorsements, assignments, limitation clauses, warranties, etc., of the original policies. Report should always state whether or not you checked the original policies. If policies not available and data obtained from other sources, **YOUR REPORT SHOULD SO STATE. Check all other types of insurance for possible contribution.**

INSURED: Individual, copartnership or corporation? Names of partner or officers.

Give insured's business and loss history.

Present apparent financial condition.

Previous residence. How long at present residence?

Is present residence temporary or permanent?

RISK: Indicate the nature of the property involved. Comment on any unusual physical hazard.

ORIGIN: Insured's theory—Adjuster's theory. Investigation by authorities.

In all suspicious cases, refer to unsatisfactory conditions as follows: "We have been informed," "We understand," "It is reported," etc.

If loss occurred while in possession of others, give details as to bailee's name, address, receipt number, released value, if any, insurance carried, policy number, amount, coverage.

If in possession of carrier, is he common or contract carrier?

Does bill of lading show released value? If yes, check carrier's tariff for permit to release value. Check report to police. By whom reported? When? Loss of property advertised?

What if trip transit loss, was shipment delayed in transit on insured's instructions? If so, was storage charge made? Does insurance cover while in warehouse? Was packing or unpacking done by insured or moving company?

POLICY VIOLATIONS: Investigate agent's knowledge, insured's statement and explanation. Report fully.

ADJUSTMENT AND GENERAL REMARKS:
Extent and nature of damage.

Insured's claim—attitude.

Adjustment satisfactory? If not, give reason.

If experts were employed or appraisal had, state reasons.

Check all restrictive, deductible or co-insurance clauses.

If policy written on reporting form or subject to book records, be certain claim presented on same basis.

Can replacement be made at discount?

Obtain all information on reverse side of Inland Marine Proof of Loss.

SUBROGATION: Should subrogation or loan receipt be taken? Have you obtained statements from witnesses? Insured, where necessary? Photographs available or taken?

Is wrongdoer or responsible party able to pay? Insured? Has question of third party's liability been thoroughly explored? How is subrogation to be handled? Does Company wish you to refer to reputable attorney?

SALVAGE: Type and condition of stock taken over and reason therefor. Report estimated net returns and when expected.

If left with insured, state steps taken to verify value.

TITLE AND ENCUMBRANCES: Submit any question of title to Company for instructions. Explore fully when question of Title involves family relationship.

If merchandise in transit, was shipment made F.O.B. shipping point or destination point? Does policy cover both situations? If consignment goods, check consignment memorandum and custom between parties or in trade for intent.

RECOMMENDATIONS: Make specific recommendations as to insured and risk.

APPENDIX B

PAYMENT: Recommend payment at Company's discretion unless, by agreement with insured, prompt payment is to be recommended.

Where State law controls time within which claim cannot be made, be sure to so state the law in effect.

If Company should include a name in draft in addition to those insured thereunder, make specific reference to it. Where power of attorney is held by another, call Company's attention to name and be sure report is accompanied by original, certified or photostatic copy of power of attorney.

Instruct Company fully of any condition to be met at time of payment such as Loan Receipt, Bill of Sale, Certificate of Satisfaction, etc.



AUTOMOBILE SHEET ONE

POLICY RECORD

BUREAU LOSS NO. _____
CO. CLAIM NO. _____

POLICY NO. _____ POLICY INSPECTED? _____ AGENT'S DAILY _____

COMPANY _____ CERTIFICATE NO. _____

INSURED _____
INCEPTION _____ EXPIRATION _____ AGENT OR FINANCE CO. _____

COVERAGE _____
LOSS PAYEE _____

INSURING _____ YEAR _____ MAKE _____ BODY TYPE _____ SERIAL NO. _____ MOTOR NO. _____
PURCHASED _____ MONTH _____ YEAR _____ NEW OR S. H. _____ COST _____
ENDORSEMENTS _____

INSURED

NAME _____ IF CORPORATION - LIST OFFICERS
PRES. _____
V-PRES. _____
ADDRESS - ST. AND NO. _____ SEC. _____

CITY.....STATE.....TREAS.....
 AGE.....FAMILY STATUS.....TEL. NO.....
 PREVIOUS LOSSES.....TYPE.....DATE.....AMOUNT.....
 COMMENTS - INCLUDE COMMENT ON OTHER DRIVERS.....
 IS COVERAGE RECOMMENDED?.....IF NOT - WHY?.....

RISK

INSPECTED AT.....DATE.....
 MAKE.....BODY.....MODEL.....YEAR.....
 SERIAL NO.....MOTOR NO.....LICENSE NO.....
 EXTRA EQUIPMENT.....MILEAGE.....
 PAINT CONDITION.....
 TIRE CONDITION.....
 REMARKS.....

ORIGIN

DATE.....TIME.....PLACE.....

CAR DRIVEN BY.....

CAUSE OF LOSS.....

DID POLICE INVESTIGATE?.....REPORT OBTAINED?.....

STATEMENT SECURED FROM INSURED?.....STATEMENT FROM DRIVER?.....

VERIFIED BY.....

IF TOTAL THEFT, IS INSURED USING RENTAL CAR?.....

OWNERSHIP AND ENCUMBRANCES

REGISTRATION IN NAME OF.....

VERIFIED BY.....(BILL OF SALE, STATE TITLE IF STATE REQUIRES TITLE CERTIFICATE)

ENCUMBRANCE TO.....

UNPAID BALANCE.....NUMBER PAYMENTS IN ARREARS.....\$

OTHER INSURANCE CARRIED BY INSURED

COVERING SAME HAZARDS

COMPANY.....POLICY NO.....

COVERAGE.....DEDUCTIBLE.....

INCEPTION DATE.....EXPIRATION DATE.....AGENT OR FINANCE CO.....

COVERING BODILY INJURY AND PROPERTY DAMAGE

COMPANY.....B. I. LIMITS.....P. D. LIMITS.....

EXPIRATION DATE.....AGENT.....

POLICY VIOLATIONS

ACTION TAKEN.....

(NON-WAIVER SECURED?)

COMPANY INSTRUCTIONS.....

ADJUSTMENT

PARTIAL		TOTAL	
ORIGINAL COST	\$.....	ORIGINAL COST	\$.....
REPLACEMENT COST NEW AT DATE OF LOSS	\$.....	COST TO REPLACE NEW AT DATE OF LOSS	\$.....
LESS DEPRECIATION	\$.....	LESS DEPRECIATION	\$.....
VALUE	\$.....	VALUE	\$.....
ESTIMATE PRESENTED	\$.....	GROSS SALVAGE	\$.....
CORRECTIONS	\$.....	CHARGES	\$.....
DISCOUNT	\$.....	NET SALVAGE	\$.....
DEPRECIATION	\$.....	LOSS	\$.....
TOTAL DEDUCTIONS	\$.....	DEDUCTIBLE	\$.....
AGREED LOSS	\$.....	CLAIM	\$.....
DEDUCTIBLE	\$.....		
CLAIM	\$.....		

ADJUSTMENT OF PROPERTY LOSSES

[illegible]

SUBROGATION

THIRD PARTY NAME.....NOTICE SENT.....

ADDRESS.....

INSURED BY.....

STATEMENT TAKEN FROM THIRD PARTY.....

.DATE.....

WITNESSESADDRESSES.....

REFERRED TO ATTORNEY.....

.DATE.....

RECOMMENDATIONS

(DRAFT TO WHOM)

SEQUENCE OF INSPECTION	DETAILS OF REPAIRS	LABOR HOURS	PARTS (LIST)	SUBLET AND REPAIR ITEMS
CHASSIS GROUP				
A: FRAME				
B: FINISHING PARTS AND COOLING				
(INSPECT FRONT TO REAR)				
BUMPERS, SHELL, GRILLES				
AND MOUNTING				
RADIATOR CORE				
FAN AND WATER PUMPS AND				
HOOD BELT				
FRONT FENDERS AND BRACES				
RUNNING BOARDS AND				
HANGERS				
REAR FENDERS				
SPLASH APRONS				
C: FRONT AXLE OR SUSPENSION ASSEMBLY				
D: STEERING ASSEMBLY				
E: REAR AXLE OR SUSPENSION ASSEMBLY				
SHAFTS AND INTERNAL PARTS				
SPRINGS AND SHOCK ABSORBERS				
BRAKE PARTS				
HUBS AND DRUMS				
WHEELS, TIRES, TUBES, HUB CAPS				
POWER GROUP				
A: ELECTRICAL SYSTEM				
B: FUEL AND EXHAUST				
C: ENGINE ASSEMBLY AND POWER TRANSMISSION				
ENGINE HOUSING AND COVERS				
ENGINE MOVING PARTS				
CLUTCH AND TRANSMISSION UNIVERSALS AND PROPELLER SHAFT				

BODY GROUP

A: SHEET METAL AND PAINT

COWL

TOP

COLUMNS AND PILLARS

QUARTER PANELS

REAR PANEL AND TRUNK

DOOR

B: TRIM, GLASS AND HARD-

WARE

NOTE: ASSOCIATED PARTS NOT
MENTIONED IN THE ABOVE OUT-
LINE WILL BE INCLUDED IN THE
PROPER GROUP.ON OWNER'S AUTHORIZATION REPAIRS WILL BE MADE IN
ACCORDANCE WITH THIS ESTIMATE.

REPAIRING AGENCY

PER.....

PARTS DISCOUNT.....%

NET PARTS.....

HOURS AT.....\$

TOTAL.....

SALES TAX.....

GRAND TOTAL.....

ADJUSTER

CONFIDENTIAL

BUREAU LOSS No. _____

**LIABILITY SHEET NUMBER ONE**

ADJUSTER'S INSTRUCTIONS: It is intended that this Sheet Number One is to be used as a guide toward the end that reports on liability claims will be complete. Individuality of the adjuster and the claim should not be subordinated to the form. If preliminary report is necessary this Sheet One should be used; if not it should be used as a guide for the final. Enclosures mentioned are suggestive. The majority of them will be needed on any serious claim and on most claims where liability is doubtful and the claim is likely to be controverted.

The company representative measures your capabilities by your handling of the routine as well as the unusual claim. Make your reports as complete as the subject demands but as concise as possible. Save copy work where possible by securing statements and enclosures in triplicate or quadruplicate. Let enclosures, where possible, speak for themselves and where they do mere reference in the body of the report is sufficient. Original statements and other pertinent documents should be retained in the file until the claim is closed and then forwarded to the company, or if in litigation, to the attorney. They should not be permanently retained in the adjuster's file. Mention of the enclosure of originals as such should always be made through the medium of transmittal letters.

COMPANY _____ AGENCY { Name: _____ Location: _____ }
 REPORT TO _____ No. COPIES _____
 ASSURED _____ LOCATION _____
 POLICY No. _____ POLICY INSPECTED? _____ INFORMATION FROM AGENT'S DAILY? _____
 POLICY COVERAGE _____
 _____ INCEPTION _____ EXPIRATION _____ PROPERTY DAMAGE AND LIABILITY LIMITS _____

OTHER COVERAGE

IF AUTOMOBILE: _____

YEAR

MAKE

BODY TYPE

SERIAL NO.

MOTOR NO.

ACCIDENT DATE _____ ACCIDENT LOCATION _____

CLAIMANTS AND CLAIM NUMBERS _____

WHEN THE CLAIM IS SETTLED BE SURE THE AGENT AND THE ASSURED ARE NOTIFIED BY YOU. DO NOT ALLOW THEM TO LEARN OF SETTLEMENT FROM ANOTHER SOURCE.

ENCLOSURES:

Assured's Report of Accident

Statements:

Assured's

Driver's

Claimant's

Witnesses, etc.

Diagram of Scene of Accident

Photographs

Police or Other Reports

Hospital Records

Attending Physician's Report

Examining Physician's Report

Death Certificate

Lease

Estimate to Repair

Releases

Draft Copies

Adjuster's Invoice

(Identify each and comment in body of report)

INSURANCE: Give source of assignment if not from the Company's Claim Department and describe coverage as reported to you.

Specify any portion of the coverage involved in this claim which should be subjected to unusual scrutiny.

Describe particular item (automobiles, products, etc.) or location (named premises) involved.

ASSURED and DRIVER:

Name, address, legal capacity, age, nationality, marital status, occupation, name and address of employer and if pertinent, earnings and financial worth.

If auto claim state whether persons other than named assured regularly or frequently operate the vehicle and comment on both assured's and operator's driving ability and experience, driver's license?

Comment on any physical or other impairments or unusual underwriting hazards.

Previous accidents or losses.

IDENTIFICATION: If auto state specifically that it was personally identified by you (give motor and serial number) or explain failure to identify.

If premises, recite identification as to location and use as described in policy. Give number of tenants and part of premises occupied by each (including assured), nature of tenancy (business or residential).

POLICY VIOLATIONS:

Comment on violation of any policy warranties or representa-

tions, delayed notice, cooperation, collusion, etc.

Was Reservation of Rights Agreement executed?

Make recommendations as to continuance of coverage.

OWNERSHIP, OPERATION AND CONTROL: At time of occurrence was named assured the record or registered owner of automobile, premises or product? Was automobile or premises operated and controlled by named assured personally? If not, discuss relationship between assured and the person in operation and control (employee, agent or servant, permittee, independent contractor, joint venturer, lessee etc.), giving facts to support conclusions.

Was auto used with consent? Was driver on mission for assured? If so, was there material deviation at the time?

If without consent, or commercial vehicle used for personal trip, cover fully.

If premises claim and lease involved, attach copy.

SCENE OF ACCIDENT: Name hour, date and place of accident. Describe scene of accident, using compass directions. Refer to diagram as enclosure.

Observe and comment on weather conditions, visibility, condition of roadway or premises, lighting and distances.

If products liability or premises claim and possible to secure the actual item involved, have it identified, labeled and preserved. Comment.

ACCIDENT: Recite your theory of the cause of the accident predicated on provable facts as reflected in enclosures.

Where necessary to depart from provable facts, give origin as contended by claimant and by assured. State your theory with reasons. Identify each theory separately.

WITNESSES: Refer to statements by name and address of witness and identify as being assured or claimant. If neither, as being prejudiced, biased, interested or disinterested and state supporting facts or those in any way affecting witness's credibility. Will he be likely to impress a jury favorably? Why?

Be certain statements show witness's present address, employer and name and address of near relative, not a member of his household, through whom he can always be reached.

PROPERTY DAMAGE: Name and address of owner and operator, relationship between them (agent, bailee, permittee etc.).

Comment on extent of damage; value before and after accident; repair estimate.

Loss of use likely to be claimed? If so, fair per diem (net) value of use.

Does claimant have insurance. If so, give complete information (Liability, Property Damage, Collision, Extended Cover etc.).

PERSONAL INJURY: Identify each injured claimant. Give name, address, age, occupation, marital status, dependents and financial status.

Was injured guest or occupant of assured's vehicle, employee, relative, friend, joint venturer, trespasser, licensee or invitee, giving supporting facts.

Identify injuries observed by you and state which are permanent or exaggerated.

Estimate probable loss of time.

Claimant's statement should contain salary information, name and address of employer. State whether lost time and lost wages have been verified with employer.

Attach reports from attending and/or examining physician and comment on diagnosis and prognosis. Estimate probable total hospital and medical bills.

Does claimant have any other recourse (Medical Payments, Accident and Health, Hospitalization or Compensation Insurance, Employee or Union Benefits, claim against someone other than assured etc.?) Is such other covered by insurance?

State that claim card has been mailed to Claims Bureau with full identification of claimant, including Social Security number.

Is the claimant represented by attorney? State status of settlement negotiations or overtures made by you, claimant, attorney.

If fatal case attach copy of death certificate, proceedings at coroner's inquest, and all information available concerning heirs or dependents.

If injured is minor, state whether disabilities have been removed or guardian appointed or whether it is deemed safe to accept parents' indemnifying release.

If claim for married woman, report fully in event your state does not allow her to release tort action.

SUBROGATION OR CONTRIBUTION: Mention subrogation possibilities, name, address and financial status of person against whom subrogation claim is to be made, his insurance coverage (policy number, limits, name of carrier).

Mention any other insurance available to assured either as a named assured, or by reason of omnibus or additional interest provisions, or through concurrent policies or overlapping coverage in different forms of policies.

Mention any contributing insurance of anyone other than assured who may be responsible, either solely or jointly with assured.

CONCLUSIONS: If claim concluded, give information deemed proper in addition to that above, including comment on drafts drawn, if requisitioned here designate to whom payable, amount, etc. Refer to releases enclosed; comment where necessary.

If claim still open suggest proposed reserves, make other recommendations and outline proposed future handling.

Request any instructions or authority not previously referred to.

Appendix C. Beaufort Scale of Wind Force

WB Form 4042A

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

BEAUFORT SCALE OF WIND FORCE

Beaufort number	Specifications for use on land	Miles per hour (statute)	Terms used in U. S. Weather Bureau forecasts
0.....	Calm; smoke rises vertically	Less than 1	Light.
1.....	Direction of wind shown by smoke drift, but not by wind vanes.		
2.....	Wind felt on face; leaves rustle; ordinary vane moved by wind.	4-7	
3.....	Leaves and small twigs in constant motion; wind extends light flag.	8-12	Gentle.
4.....	Raises dust and loose paper; small branches are moved. . .	13-18	Moderate.
5.....	Small trees in leaf begin to sway; crested wavelets form on inland waters.	19-24	Fresh.
6.....	Large branches in motion; whistling heard in telegraph wires; umbrellas used with difficulty.	25-31	Strong.
7.....	Whole trees in motion; inconvenience felt in walking against wind.	32-38	
8.....	Breaks twigs off trees; generally impedes progress	39-46	Gale.
9.....	Slight structural damage occurs (chimney pots and slate removed).	47-54	
10.....	Seldom experienced inland; trees uprooted; considerable structural damage occurs.	55-63	Whole gale.
11.....	Very rarely experienced; accompanied by widespread damage.	64-75	
12.....	.....	Above 75	Hurricane.

(WB-8-2-46-3M) 221

Appendix D. Non-waiver Agreements and Adjuster's Agreements

NON-WAIVER AGREEMENT

It is hereby mutually understood and agreed, by and between.....

hereinafter called the Claimant, and the Insurance Companies, represented by the Committee on Losses and Adjustments, acting through the undersigned Adjustment Committee.

That any action taken by the Companies, or their representatives, in investigating the claim made by Claimant for loss which occurred at.....

on.....19..... or in the investigation or ascertainment of the amount of actual cash value and loss, shall not waive or invalidate any condition of the policies of such Companies held by said Claimant, nor the rights of either or any of the parties to this agreement; and such action shall not be, or be claimed to be, any admission of liability on the part of said Companies, or any of them.

The consideration of and for this agreement is the mutual desire and intention of the parties hereto, to determine the value of the property and/or the amount of damage thereto without regard to any other questions.

Witness our hands, at.....

this.....day of.....19.....

(This memorandum may be detached if desired)

MEMORANDUM OF VALUE AND LOSS

Assured.....

Location.....

Property involved in claim.....

Date of Loss.....

This memorandum is without admission of liability. The sound value of the property claimed to be insured and the loss thereon have been ascertained as shown below, without prejudice to any defenses and subject to all and singular the terms and conditions of the policies upon which claim is made.

ITEM

VALUE

LOSS

.....
.....
.....
.....
.....

NON-WAIVER AGREEMENT

INSURED _____

LOCATION _____

PROPERTY INVOLVED IN CLAIM _____

DATE OF LOSS _____

IT IS HEREBY AGREED BY AND BETWEEN THE ABOVE-NAMED INSURED AND THE INSURANCE COMPANIES WHOSE NAMES ARE SIGNED HERETO THAT ANYTHING DONE OR TO BE DONE BY SAID INSURANCE COMPANIES, OR ON THEIR BEHALF, IN CONNECTION WITH THE ABOVE-DESCRIBED LOSS, INCLUDING ANY INVESTIGATION INTO CAUSE OR AMOUNT OF LOSS OR OTHER MATTER RELATIVE THERETO, SHALL NOT WAIVE, INVALIDATE, FORFEIT OR MODIFY ANY OF THEIR RIGHTS UNDER THE TERMS AND CONDITIONS OF THE RESPECTIVE POLICIES ISSUED BY THEM.

THIS AGREEMENT IS MADE FOR THE AID AND CONVENIENCE OF THE PARTIES HERETO, TO PERMIT INVESTIGATION OF THE CLAIM AND ASCERTAINMENT OF APPROPRIATE VALUES OF AND LOSS OR DAMAGE TO THE PROPERTY INVOLVED TO BE MADE WITHOUT DELAY AND WITHOUT PREJUDICE TO ANY OF THEIR RIGHTS.

WITNESSES:

ADDRESS

ADDRESS

DATED _____ 19 _____

AGREEMENT AS TO ACTUAL CASH VALUE AND AMOUNT OF LOSS

(SUBJECT TO NON-WAIVER AGREEMENT, IF ANY, AND TO TERMS AND CONDITIONS OF APPLICABLE INSURANCE POLICIES AND AGREEMENTS)

ON _____

\$

\$

ON _____

\$

\$

ON _____

\$

\$

ON _____

\$

\$

ON _____

\$

\$

TOTAL

\$

\$

WITNESSES:

ADDRESS

ADDRESS

DATED _____ 19 _____

Appendix E. Letter Calling on Insured to Protect Property from Further Damage

Dear Sirs:

1. From preliminary inspections of the burned-over portion of your premises, we are satisfied that such machinery and equipment as is now standing in the area of the destroyed building will be much further damaged if left exposed to weather, particularly so in case of heavy rains.

2. At this time your insurers have received notice of loss as required by Lines 90 and 91 of their policy contracts reading, "The insured shall give immediate written notice to this Company," but as representatives of your insurers, we do not find that you are making any effort to protect the property from further damage, an action required by Lines 91 and 92 of said contracts, reading,

"shall . . . protect the property from further damage."

3. We, therefore, put you on notice that, unless you commence promptly and prosecute with all reasonable diligence, effective efforts to protect the property from further damage, we shall be compelled to abstain from any further negotiations of investigation and adjustment under the item of your policies covering said equipment, and report to your insurers that you refuse to act as required by the contract conditions heretofore quoted.

4. We further notify you that, as the policies provide there can be no abandonment of the property to the insurers, see Lines 148 and 149, reading,

"But there can be no abandonment to this Company of the property described,"

there is no duty incumbent on your insurers to protect the property on their own account.

5. You can readily see that, should it become impossible for us to agree on the amount of loss under the item of your policies covering machinery and equipment, making it necessary for us to determine this amount by appraisal, the property should be submitted to the appraisers in the condition that it was immediately following the fire.

6. As we do not intend to waive, or abandon, our right to appraise should we be unable to agree, we notify you that any action on your part which would operate to obstruct or hinder a proper examination of the property by appraisers will be looked upon as an action terminating the liability of your insurers.

Yours very truly,

Appendix F. Smoke Odor Service

HOW AIRKEM WORKS

Specially compounded liquid formulations are introduced into the smoke odor laden premises by means of power driven nebulizer equipment. The liquid is vaporized and atomized. Airkem formulations are harmless. They are non-toxic and non-inflammable. Following the vaporization process the treated interior is thoroughly aired. This cycle is repeated as often as necessary, depending upon the degree of smoke odor penetration.

Nothing within the smoke odor affected space should be moved. The Airkem vapors follow the path of the smoke. After the smoke odors are removed other necessary work may be accomplished.

The odors of smoke from automobiles have been successfully removed by Airkem. Also other types of contaminated odors such as ammonia, paint, raw product odors — special Airkem formulations have been developed to successfully kill these offensive odors. Airkem is available for consultation on odor problems of all types.

Airkem Smoke Odor Service is accepted, approved and recommended by leading fire insurance companies in the United States. You may use this service in confidence. Our network of trained specialists stand ready for your call any hour of the day or night. Your nearest representative is

(The Service has branches
in many large cities)

Airkem
Smoke Odor Service

Airkem, Inc., 241 East 44th Street, New York 17, N. Y.

PRINTED IN U.S.A.

Appendix G. Salvage Agreements

AGREEMENT FOR REMOVAL OF STOCK FOR BETTER PROTECTION AND/OR DISPOSITION

THIS MEMORANDUM (executed in quadruplicate-original) WITNESSETH:
THAT WHEREAS the undersigned

who for the purpose of brevity herein is hereinafter called the "Insured" claim to hold certain policies issued to said Insured by the Insurance Companies, who for the purpose of brevity herein are hereinafter called the "Insurers" and are represented by the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, acting through the undersigned Adjustment Committee, which said policies of insurance purport to insure the said Insured against loss and damage by fire (or other casualty) to the property therein described, to wit:

while contained in

and under which claim has been made for loss and damage to said property by casualty occurring on or about

AND WHEREAS it is to the mutual advantage of all parties hereto and of all who may have any interest in said described property that steps be taken immediately to protect same from further injury, without waiting to determine any question of value or of ownership or liability for loss thereto;

IN CONSIDERATION WHEREOF it is hereby mutually understood and agreed by and between the said Insured and the Insurers (each alleged Insuring Company acting for itself and not for its co-signers) that the following described property,

shall be and is hereby delivered into custody of

for account of whom it may concern to be by them removed for better protection and/or drying and/or conditioning and held by them subject to the Insured's order under the following conditions:

1. and the Insured acting jointly shall make a complete detailed inventory of said stock before or as it is removed from said premises, but any prices shown on said inventory, being prices given by the Insured are not binding upon the Insurers, as

has/have no authority to agree on prices or values.

2. It is understood and agreed that

has/have or will obtain insurance in its/their own name for account of whom it may concern, to the full alleged value of the removed property in its damaged condition, against hazards of fire, lightning, sprinkler leakage, theft, burglary and pilferage, transportation, explosion and water damage, but nothing herein contained shall be construed as relieving

from its/their legal liability for all loss and damage to the removed property resulting from its/their negligence.

3. It is warranted by the insured that no other individual, firm or corporation has any interest in the property herein described, either by way of chattel mortgage, consignment, transfer, conditional bill of sale, warehouse receipts, lien or trust agreement, except as follows:

4. It is further understood and agreed that if any of the above described merchandise is in bond, the same shall be transferred in bond, and held subject to Customs inspection for abatement of duty as required by Section 563, Tariff Act of 1930.

5. All necessary charges and expenses of

including the cost of re-delivering if the property is returned to the Insured, shall be held as a charge against the property removed, and in the event of an appraisal and award after removal of the property under this agreement, shall be added to the Award if not already included therein.

Nothing herein contained shall be construed as authorizing or empowering

to hold any removed property and to refuse to re-deliver same on the Insured's written demand until all their charges are satisfied. , however, possess the right to retain possession of the property during the normal period required for drying and/or conditioning.

It is agreed that in the event it is determined by law suit, or otherwise, that the insurers have no liability to the insured, the insured herein assumes liability to for their proper charges in connection with the removal and/or conditioning, and/or drying, and/or storing, and/or returning of the insured's property or any part thereof.

It is further agreed that in the event it is determined by law suit, or otherwise, that the liability under the policies of the insurers is insufficient to satisfy: first, the determined loss and second, the proper charges of as enumerated in the preceding paragraph, the insured hereby assumes liability to

for such part of their charges as above remaining unsatisfied after the limit of liability under the policies of insurance has been exhausted.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the above action and execution of this Agreement and any authorized sale or other disposition of the whole or any part of the salvage property shall not be construed or pleaded as an admission of liability on the part of the Insurers, or as a waiver of any of the conditions of their several policy contracts, or as a waiver of or in estoppel to any defense that may exist against any claims thereunder, the object of this action and agreement being to immediately protect the property from further damage for the account of whom it may concern without delaying to determine the value thereof or the amount of and/or liability for loss thereto, so that the value remaining may be conserved to the greatest extent for all parties at interest.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this
day of 19

.....

.....

Insured

.....

.....

Adjustment Committee

ACTING FOR THE COMMITTEE ON
LOSSES AND ADJUSTMENTS OF THE
NEW YORK BOARD OF FIRE UNDER-
WRITERS.

hereby agree to assume
custody of the above described property subject to all the terms of the foregoing
Agreement.

.....

We authorize the sale of the property described above for our account.

.....

Insured



No. 1 - PROTECTION

THIS MEMORANDUM WITNESSETH: That whereas, the
stock described as insured by policies issued to

_____ has been damaged by fire or water occurring on or about the _____ day
of _____, 19____.

WHEREAS, it is to the benefit of all who may have an interest in
_____ stock
contained in building located at

_____ that same be handled with as little delay as possible without waiting to
determine the respective ownership or interests or liabilities under
policies purporting to insure this property;

IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED: that all the
remains of said stock as specified shall be turned over to the Underwriters
Salvage Company of New York, to be by them put in best possible order; and all
costs and expenses of such operations plus the Salvage Company's regular
fee shall be charged against the property, but there can be no abandonment
to the insurers of the property described.

IN WITNESS WHEREOF, we have hereunto attached our hands
and seals on _____ copies - original at: _____
this _____ day of _____, 19____.

_____ (L.S.)

_____ (L.S.)

_____ (L.S.)

_____ (L.S.)

Lot No. _____

_____ (L.S.)



No. 2 - SALE

THIS MEMORANDUM WITNESSETH: That whereas, the
stock described as insured by policies issued to

_____ has been damaged by fire or water occurring on or about the _____ day
of _____, 19____.

WHEREAS, it is to the benefit of all who may have an interest in
_____ stock
contained in building located at

_____ that same be handled with as little delay as possible without waiting to
determine the respective ownership or interests or liabilities under
policies purporting to insure this property;

IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED: that all the
remains of said stock as specified shall be turned over to the Underwriters
Salvage Company of New York, to be by them put in best possible order and sold
in the interest of whom it may concern. The proceeds of such sale, less the
Salvage Company's expenses of handling and the regular commission on gross
sales, shall be held by them as Trustee until loss is adjusted and then
turned over by them to the parties to whom said proceeds belong.

IN WITNESS WHEREOF, we have hereunto attached our hands
and seals on _____ copies - original at: _____,
this _____ day of _____, 19____.

_____ (L.S.)

_____ (L.S.)

_____ (L.S.)

_____ (L.S.)

Let No. _____

_____ (L.S.)

DIRECTION TO TAKE CUSTODY OF AND
SALVAGE DAMAGED MERCHANDISE

To: The Underwriters Salvage Company of Chicago
215-227 South Laffin Street
Chicago, Illinois.

Gentlemen:

Certain merchandise located on the premises known as
. has been damaged by a fire which occurred
on or about the day of , 19

Said merchandise is claimed to be insured by policies (or a policy) of insurance
issued to the undersigned,
by the undersigned insurance companies (or company).

The undersigned believe it is for the benefit of all who may have an interest in
said merchandise that the same may be handled and, if possible, salvaged without
delay and without waiting to determine the ownership of said merchandise or the
interests or liabilities with respect thereto under policies of insurance purporting
to insure the same.

The undersigned, therefore, hereby authorize and direct you to take immediate
custody of said merchandise and grant you full authority to put said merchandise
in a more saleable condition (if that in your opinion seems advisable) and to
dispose of and sell said merchandise in whatever manner you believe to be to the
best advantage. From the proceeds of the sale of said merchandise you are author-
ized to reimburse yourself for all expenses of handling said merchandise including
expenses for putting said merchandise in a more saleable condition, travelling
expenses, labor and other expense incurred by you with respect to said merchan-
dise. You are also authorized to retain from the proceeds of such sale a commission
of 12½% of the gross sales price. The balance of the proceeds of such sale shall
be held by you as Trustee until the ownership of said merchandise and the various
interests therein shall have been determined, after which time said balance shall
be paid to whomever may be entitled thereto.

In consideration of your taking the immediate custody of said merchandise, the
undersigned hereby agree to hold you harmless from any claims made by any
persons other than the undersigned who may claim an interest in said merchandise.

Executed at
this day of , 19

REPRESENTATIVES:	COMPANIES:
.
.
.

ACCEPTED:	ACCEPTED:
.	THE UNDERWRITERS SALVAGE COMPANY

ASSURED
By By

Appendix H. Letters Rejecting Proofs of Loss

When a proof of loss is filed after the time required for filing has expired, the following form of letter is often used in returning the proof which should first be photostated so that the company shall have a reliable copy:

Mr. John Doe,
1 Main Street,
America City, N. Y.

Dear Sir:

The enclosure was received this first day of January, 1952, and is returned respectfully declined because not filed within the time required by the conditions of the policy referred to therein.

Yours very truly,

BLANK INSURANCE CO.

By

Adjuster

When a proof of loss has been received within the required time and has been found to be defective, it is often rejected by a letter similar to the following:

Mr. John Doe,
1 Main Street,
America City, N. Y.

Dear Sir:

re: *Claim, Policy No. 1*

A paper signed by you purporting to be a proof of loss has been received by us, and we hereby give you notice that said paper cannot be accepted as a proof of loss for the following among other reasons, to wit:

The said paper does not state the interest of the insured and all others in the property.

The said paper does not state by whom or for what purpose the building described was occupied.

The paper does not state whether there had been any change in the title, use, occupation, location, or possession of the property since the issuing of the policy.

We, therefore, decline to accept the so-called proof of loss and hold the same in this office subject to your order.

Yours very truly,

BLANK INSURANCE CO.

By

Adjuster

Appendix I. Appraisal Memorandum and Agreement

GENERAL ADJUSTMENT BUREAU, INC.

MEMORANDUM FOR APPRAISAL

This memorandum by and between.....
.....of the first part, and
the insurance company, or companies, whose names are signed hereto, each for
itself and not jointly, of the second part.

WITNESSETH: That whereas the party of the first part claims to have sustained
a loss by..... occurring on the..... day of.....
19..... to and upon the following described property, to wit:

.....
.....and

WHEREAS, A disagreement has arisen between the parties hereto, as to the actual
cash value and the amount of such loss, and

WHEREAS, The policy (or policies) of said party (or parties) of the second part,
held by said party of the first part provides that:

APPRAISAL. In case the insured and this company shall
fail to agree as to the actual cash value or
the amount of loss, then, on the written demand of either, each
shall select a competent and disinterested appraiser and notify
the other of the appraiser selected within twenty days of such
demand. The appraisers shall first select a competent and dis-
interested umpire; and failing for fifteen days to agree upon
such umpire, then, on request of the insured or this company,
such umpire shall be selected by a judge of a court of record in
the state in which the property covered is located. The ap-
praisers shall then appraise the loss, stating separately actual
cash value and loss to each item; and, failing to agree, shall
submit their differences, only, to the umpire. An award in writ-
ing, so itemized, of any two when filed with this company shall
determine the amount of actual cash value and loss. Each
appraiser shall be paid by the party selecting him and the ex-
penses of appraisal and umpire shall be paid by the parties
equally.

THEREFORE, THIS MEMORANDUM WITNESSETH: That in conformity to the terms and conditions of the policy (or policies) of the party (or parties) of the second part.
 and
 have been selected and are hereby appointed appraisers, to appraise in accordance with the terms and conditions of said policy (or policies), the actual cash value of said property and the amount of loss directly caused by said
 to and upon the same.

It is further mutually agreed that such appraisement does not in any respect waive any of the provisions or conditions of said policy (or policies) of insurance or any forfeiture thereof or the proof of such loss required by the policy (or policies) of insurance thereon.

Witness our hands (in duplicate) at this day
 of 19.

DECLARATION OF APPRAISERS

STATE OF }
 COUNTY OF } ss.

We, the undersigned, do solemnly swear that we will act with strict impartiality in making an appraisement of the actual cash value and the amount of loss upon the property hereinbefore mentioned, in accordance with the foregoing appointment, and that we will make a true, just and conscientious award of the same, according to the best of our knowledge, skill and judgment. We are not related to the insured, either as creditors or otherwise, and are not interested in said property or the insurance thereon.

. }
 } APPRAISERS

Subscribed and sworn to before me this . . . day of a. d. 19

Notary Public.

SELECTION OF UMPIRE

We, the undersigned, hereby select and appoint
 to act as umpire to settle matters of difference that shall exist between us, if any, by reason of and in compliance with the foregoing memorandum and appointment.

Witness our hands this day of a. d. 19

QUALIFICATION OF UMPIRE

STATE OF..... }
COUNTY OF..... } ss.

I, the undersigned, hereby accept the appointment of umpire, as provided in the foregoing agreement, and solemnly swear that I will act with strict impartiality in all matters of difference that shall be submitted to me in connection with the appointment, and I will make a true, just and conscientious award, according to the best of my knowledge, skill and judgment. I am not related to any of the parties to this memorandum nor interested as a creditor or otherwise in said property or insurance.

Subscribed and sworn to before me this..... day of..... 19.....

Notary Public.

AWARD

We, the undersigned, pursuant to the within appointment, DO HEREBY CERTIFY that we have truly and conscientiously performed the duties assigned to us agreeably to the foregoing stipulations, and have appraised and determined and do hereby award as the actual cash value of said property on the..... day of..... 19..... and the amount of loss thereto by..... on that day, the following sums, to wit:

	Actual cash value		Amount of loss	
1ST ITEM.....
2ND ITEM.....
3RD ITEM.....
4TH ITEM.....
5TH ITEM.....
6TH ITEM.....
TOTAL ACTUAL CASH VALUE AND TOTAL AMOUNT OF LOSS				

Witness our hands this..... day of..... 19.....

..... } Appraisers
..... }
..... Umpire

APPRAISAL AGREEMENT

IT IS HEREBY STIPULATED AND AGREED by and between.

 of the first part, and.
 each acting for itself and not as agent for the other,
 and each as party of the second part, that.
 designated by the part. of the first part, and.

 designated by the part. of the second part, shall ascertain, pursuant to the
 terms and conditions of the polic. of insurance issued by said comp.
 to the party of the first part, the actual cash value of the property of said party of
 the first part, at the time of loss on the. day of. 19. . .
 which property insured against direct loss by. is more
 particularly described in the polic. as.

 as well as the actual direct loss caused thereto by the casualty which occurred on
 that day and/or, if this agreement contemplates personal property, in such case
 loss if any caused by removal from premises endangered by the casualty; that the
 said two appraisers shall first select a competent and disinterested umpire, and
 the said two appraisers shall then appraise the loss, stating separately actual cash
 value and loss to each item; and failing to agree shall submit their differences only
 to the umpire. An award in writing, so itemized, of any two when filed with the
 companies signatory hereto shall determine the amount of actual cash value and
 of loss. Such loss shall be ascertained according to the actual cash value of said
 property at the time of the occurrence of said casualty, and shall in no event
 exceed what it would cost to repair or replace the property with material of like
 kind and quality within a reasonable time after such loss, without allowance for
 any increased cost of repair or reconstruction by reason of any ordinance or law
 regulating construction or repair, and without compensation for loss resulting
 from interruption of business or manufacture, but such appraisal does not in
 any respect waive any of the provisions or conditions of said policy or policies of
 insurance, or any forfeiture thereof, or the proof of such loss required by the
 policy or policies of insurance thereon.

Each appraiser shall be paid by the party selecting him and the expenses of
 appraisal and umpire shall be paid by the parties equally.

New York, 19. . .

.

APPOINTMENT OF A THIRD PERSON

We, the undersigned, do hereby appoint. as umpire,
as provided for in the within Agreement.

... 19. . .

..... } Appraisers
..... }

DECLARATION

STATE OF..... }
COUNTY OF..... } ss.

We, the undersigned, do solemnly swear that we are not interested, either directly or indirectly, as partners, creditors, or otherwise, or related to either of the parties to the foregoing agreement; that we will act with strict impartiality in making an appraisal agreeably to the foregoing appointment, according to the best of our knowledge, skill and judgment.

WITNESS our hands, this.....day of.....19. . . A.D.

..... } Appraisers
..... }
..... Umpire

Sworn to before me by said.....
and subscribed by.. . in my presence, this.day of.....19.... A.D.

AWARD

We, the undersigned, pursuant to the within appointment, DO HEREBY CERTIFY, that we have truly and conscientiously performed the duties assigned us, agreeably to the foregoing stipulations, and have appraised and determined the actual value of each item of said property on the.day of.19...and the actual direct loss thereto by the casualty on that day, to be as follows (*see itemized schedule attached*), to wit:

Total Actual Cash Value.....

Total Actual Direct Loss.....

WITNESS our hands this day of.19....A.D.

..... } Appraisers
..... }
..... Umpire

Appendix J. Demand for Examination under Oath

Atlanta, Georgia, February 26, 1953.

Re: *Claim under Fire Insurance Co.'s Policy No.*
Fire of January 4, 1953.

Dear Sirs:

In answer to your communications of February 14th and 21st concerning the above claim, the Fire Insurance Company does hereby advise you that, as provided for by the conditions of the above numbered Policy Contract as set forth in Lines 113 to 122 thereof, reading:

"The insured, as often as may reasonably be required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may reasonably be required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made."

it requires you to submit to examination under oath and to subscribe the same concerning your claim for loss and damage by fire said to have occurred on or about January 4th, 1953, to property alleged to be insured under aforesaid Policy, for which purpose the Fire Insurance Company desires Mr. and Mr. to present themselves at their place of business at at 10 A. M., Thursday, February 26th, 1953 to answer such interrogatories as may then be put to them by or whom the Fire Insurance Company have designated to conduct such examination on their behalf.

The Fire Insurance Company does hereby require you to produce at the above designated time and place for the examination of the said or the above named Policy and all other Fire Insurance Policies, and or binders, and or other contracts for insurance covering in whole or in part on said described property, together with all books of account, including Bank Books, Check Books, Stub Books, Receipt Books, Bank Accounts and Statements, Notes, Checks and Canceled Checks, and all Bills, Invoices and other Vouchers or certified copies thereof, if the originals have been lost, covering purchases of and or sale of and or the interest in or title to the property which you claim was insured under above numbered policy, and permit the said or to make extracts and copies thereof.

In making this demand for examination under oath and the production of the above enumerated documents, the Fire Insurance Company neither admits nor denies liability for any loss that may have been sustained to the property described as insured in the above Policy, nor does it waive any defense that may exist there under, this demand being made under the conditions of said Policy as set forth in Lines 52 to 55 reading:

“No provision, stipulation or forfeiture shall be held to waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.”

If it is not possible for and to be present at the time and place above designated, or to then and there produce the above enumerated documents, kindly advise us promptly of that fact and we will arrange to make a date that will meet our mutual convenience.

Very truly yours,
Adjuster.

February 23rd, 1953.

To:

., Corporation,
., President,
., New York.

PLEASE TAKE NOTICE that the

. Insurance Co. of New Jersey under the terms of its policy number,
. Fire Insurance Co. under the terms of its policy number,
. Insurance Co. of America under the terms of its policy number,

under the terms of which policies you have rendered sworn Proofs of Loss arising out of the fire of November 14, 1951, demand that you submit to examination under oath by and that you subscribe the same. The office of Messrs., on the twelfth floor of No. Broadway, Borough of Manhattan, New York City, is hereby designated as the place, and the hour of 11 a. m. on Thursday, January 2, 1952, as the time for the commencement of the examination. Please bring with you at said time and place your deeds to the property described in said policies of insurance.

Yours truly,

. INSURANCE CO. OF N. J.,
. FIRE INSURANCE CO.
. INSURANCE CO. OF AMERICA.

By

Adjuster.

Appendix K. Supplementary Agreement

SUPPLEMENTARY AGREEMENT to be attached to Proofs of Loss covering claim under Policy No. . . . of the . . . Ins. Co. of . . .

It is hereby understood and agreed between . . . of . . . and the . . . Ins. Co. (through its adjuster) whose names are signed hereto, that, in compromise settlement, the sound value of and loss to property, by fire of . . . is fixed as follows:

	SOUND VALUE	LOSS
On	\$	\$
On	\$	\$
On	\$	\$
On	\$	\$
On	\$	\$

instead of as heretofore claimed and the said . . . agree. . . to accept from this Company the sum of: . . . Dollars (\$)
as its proportion of said loss under this agreement.

IN WITNESS whereof the presents have been signed at . . . this. . . day of . . . 19

INSURED

Adjuster of the
Ins. Co. of

Appendix L. Certificate of Satisfaction

TO PHOENIX ASSURANCE COMPANY, LTD., OF LONDON.

I HEREBY CERTIFY that building No. insured by
your Company, under Policy No. expiring. 19
was damaged by fire on the ... day of. ,
19 , and that all damage thereto has been fully repaired to
satisfaction, by.

I further certify that there was insurance on said building to the amount of
\$. and no more, as per the following list:

.....
.....

.....
.....
.....
.....
.....

Appendix M. Mortgagee, Articles of Subrogation and Assignment

ARTICLES OF SUBROGATION AND ASSIGNMENT

BE IT KNOWN, That the Insurance Company,
of did insure
under its Policy No. issued at its Agency at as follows:
.....
for the period of years, commencing on the day of 19..
and continuing until the day of 19 .., to which said Policy there
was attached a Mortgage Clause, making loss or damage under said Policy payable for assured's
account unto trustee or mortgagee, or successors in trust, as
interest may appear, and providing that whenever said Company should pay any sum for loss under
said Policy No. and should claim that, as to the grantors in the mortgage or trust deed, or
to the owners of the property so insured, no liability therefor existed, then said Company should
at once be subrogated to all the rights of the said trustee or mortgagee under all the securities held
for the debt by him or them.

Said mortgage or trust deed having been given by
to and dated the day of A.D. 19 ..
and recorded on the day of A.D. 19 .., in the Recorder's Office of
..... County, in the State of in book
of at page AND IT APPEARING that on the day of
..... 19 .., a fire occurred by which the property originally insured was damaged or destroyed
to the amount of Dollars, and the said
..... Insurance Company hereby claiming that, as to the said assured under
the said Policy and the present owner of the property so insured under said Policy above mentioned,
no legal claim exists against said Company, and that said Company is in no manner liable to them or
either of them under the terms and conditions of said Policy. Now, THEREFORE, in consideration of
..... Dollars, this day paid to the trustee or mortgagee
under said mortgage clause by said Insurance Company, the receipt whereof
is hereby acknowledged, said sum being in full settlement of said Company's liability to said trustee
or mortgagee by reason of said loss and damage under said Policy, the said mortgagee
or trustee does hereby assign, set over, transfer and subrogate to the said Insurance
Company, all the right, title, claim and interest to the amount of Dollars, which
....., the said trustee or mortgagee has in said trust deed or
mortgage above described, and in and to the note or notes therein described. And it is agreed that all
interest which hereafter accrues upon said sum of Dollars aforesaid,
shall inure and be paid to said Insurance Company, and that no release of any kind or for any amount
of said notes or mortgage, or any part thereof, shall be made by said trustee or mortgagee until said
Company shall have received therefrom said sum of Dollars, paid said trustee or mortgagee
as aforesaid, with interest thereon at the same rate as provided in and by said notes from the date
hereof until paid.

Said trustee or mortgagee, hereby authorizes and empowers
said Insurance Company to sue, foreclose, compromise or settle, in
name or otherwise, for said amount, and it is hereby fully substituted in place and subrogated
to all rights in the premises to the amount so paid, it being agreed, however, that any action
taken by said Company shall be without cost to said trustee or mortgagee, as aforesaid.

..... [SEAL]
Trustee.
..... [SEAL]
Legal Owner of Said Note.

STATE OF } ss. I,
COUNTY OF
a in and for said County, in the State aforesaid, do hereby certify that
personally known to me to be the same person whose name
is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged
that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and
purposes therein set forth.

Given under my hand and seal this day of A.D. 19 ..

Appendix N. Adjuster's Loss Reports

N. B. F. U. Standard
Classification, 1947

CONFIDENTIAL

ADJUSTER'S LOSS REPORT

FIRE AND LIGHTNING

(Property Damage and Time Element)

Company
Claim No.

Date of Payment
(to be entered by Company)

CLASS No.
(to be entered by Company)

Full Name of Insured
If a corporation, give names of
officers. If not a corporation
give names of principal owners
or interested parties.

DO NOT WRITE IN THIS SPACE

Location { Street and No.
of Risk { City or Town

County
State

Date of Loss

19..... { A. M.
P. M.

DO NOT WRITE IN THIS SPACE

Cause of Loss

ACTUAL CASH VALUE				WHOLE LOSS	DAMAGE	TOTAL INSURANCE	TOTAL AMOUNT PAID
In all cases, Item: covering show by item							
Cash Value, Item: covering	\$	\$	\$	\$	\$	\$	\$
Whole Loss or	\$	\$	\$	\$	\$	\$	\$
Damage, and Item: covering	\$	\$	\$	\$	\$	\$	\$
Total Insur- Item: covering	\$	\$	\$	\$	\$	\$	\$
ance.							
NAME OF COMPANY						Total Amount Paid by this Company	

Policies in this Company*

No. \$

No. \$

No. \$

Name of Adjuster

Name of Agent

Location of Agency

Number of Companies Interested

* WHEN MORE THAN ONE COMPANY IS INTERESTED, SHOW APPORTIONMENT ON BACK
OR ATTACH COPY OF APPORTIONMENT.

Construction—Brick, Frame or Fireproof U—Unprotected. P—Protected. U—Unprotected. P—Protected.
Is risk within protection of Public Fire Station? 500 feet of Public Hydrant?
Do you estimate the aggregate property damage and time element loss (including exposures) involved in this occurrence will exceed \$750,000? Yes ☐ No ☐ If exposure, give name of owner or occupant of premises where fire originated
Do you recommend that we continue insurance for insured? Yes ☐ No ☐ For this risk? Yes ☐ No ☐
Prefer to make no recommendation? Did you interview fire chief or his representative?
Present Business of insured
Business address (if different from location of risk)
Dates of Previous Losses Under what name?
Moved since fire, if so, where?
If insured is represented by adjuster or attorney, give name
Name of building owner
If origin of fire or any features of claim or adjustment unsatisfactory give details with full names of husband and wife, officers of corporation or principal owners, and (where possible) approximate ages.

Adjuster.

NOTE:—Adjuster to send original to Company and copy to the National Board of Fire Underwriters, 85 John Street, New York 38, N.Y. Companies desiring to retain a copy for file should request adjusters to furnish an extra copy with the original.

[illegible]

CONFIDENTIAL ADJUSTER'S LOSS REPORT
 LOSS RESEARCH DIVISION
 MUTUAL LOSS RESEARCH BUREAU

ASSURED _____

 LOCATION _____

 NO. AND STREET _____
 CITY _____ STATE _____
 ADJUSTING FIRM _____
 ADJUSTER _____

COPY OF THIS REPORT TO BE SENT DIRECT TO EACH INTERESTED COMPANY

HISTORY OF ASSURED

1. If partnership, names of partners; if corporation, give name of state or foreign country in which incorporated and names of officers: _____

2. If individual _____
 APPROXIMATE AGE _____ NAME OF WIFE OR HUSBAND _____
 3. If mercantile risk, assured's home address? _____
 4. If dwelling, assured's occupation and business address? _____
 5. Give brief outline of assured's history, covering the following:
 a. Financial stability? _____ If so, date and place _____
 b. Bankruptcies? _____
 c. Previous kind of business _____
 d. Previous fires (dates, locations, amounts) _____ Location _____

e. Does adjuster recommend continued insurance for this assured? _____ Hour _____ A. M. _____ P. M.

6. Date of fire _____

7. Origin—give full explanations:

a. In what part of building did fire originate? _____

IF ORIGIN IN OTHER TENANCY, GIVE NAME AND BUSINESS

b. Who discovered fire? _____ Who turned in alarm? _____

c. If origin determined, describe in detail _____

d. If origin indefinite, what is adjuster's theory? _____

e. Was fire chief consulted? Yes _____ No _____ Who else? _____

State Opinions Received _____

RISK

8. Occupancies _____
TYPE OR TYPES OF BUSINESS
9. Did occupancy contribute to fire? _____ If so, explain _____

10. Construction _____
BRICK, FRAME, FIREPROOF, ETC.
11. Did construction contribute to size of fire? _____

12. Any physical defects needing correction? _____

13. If fire originated in another building, distance in feet from risk _____ Construction _____
 Ownership _____ Occupancy _____
14. Neighborhood fire record _____
15. Does adjuster recommend continued insurance on this risk? _____

HISTORY OF ADJUSTMENT

16. If building loss:

- a. Did adjuster prepare his own estimate? _____
- b. Did assured have contractor prepare estimate? _____
- c. Did adjuster have contractor prepare estimate? _____

d. Was estimate prepared by adjuster in conjunction with assured's contractor? _____

17. If stock, fixtures, machinery, or personal effects loss:

a. Was inventory taken? By whom, explain _____

18. Salvage:

a. If salvage taken over, who purchased, explain basis _____

19. Attitude of assured toward the adjustment: ☐ Fair ☐ Minded ☐ Cooperative ☐ Mercenary ☐ Difficult
Explain fully: _____

20. If assured represented by adjuster or attorney, give name _____

21. Was fire due to the act or omission of a third party? _____

RECOMMEND DRAFT BE MADE PAYABLE TO: _____

COPY OF (a) STATEMENT OF LOSS, (b) APPORTIONMENT OF CLAIM (c) TRANSMITTAL LETTER, TOGETHER WITH COPY OF THIS REPORT TO BE SENT BY ADJUSTER DIRECT TO LOSS RESEARCH DIVISION, 919 N. MICHIGAN AVENUE, CHICAGO 11, ILLINOIS.

Appendix O. Adjuster's Report, J. J. Windle

Form

NO. _____

A.—ASSURED (State whether co partnership or corporation and give names of partners and officers.) State race and nationality of Assured.

B.—FIRE OCCURRED AT. _____ M. _____ 192____, which Assured alleges originated
(Give cause here exactly as stated in proofs)

C.—ADJUSTER'S THEORY AS TO ORIGIN.

D.—OCCUPANCY. _____ State by whom and for what purpose _____ State race and nationality of occupants

E.—TITLE AND INTEREST. _____ (State Assured's title and changes, if any, since policy was issued.)

F.—INCUMBRANCES. _____ Give amounts, dates when due and to whom payable. State what Loss Payable Clauses attached to Policy, i. e.,
"Standard Mortgage Clause" or "Standard Mortgage Clause"

G.—SALVAGE. Will there be any? _____ Show on loss statement.

H.—AUTOMATIC SPRINKLERS. If premises so equipped, submit written report.

I.—SUBROGATION. Should subrogation receipt be taken? _____ If yes, submit full written report.

J.—PREVIOUS FIRES. Does Assured admit having had any? (If so, give particulars, location and date)

K.—Have you personally examined and checked Policies? _____ If not, why? _____
(If policy claimed lost or destroyed, furnish Assured's written statement.)

L.—PROOFS EXECUTED _____ 192____, by _____

M.—PAYMENT. (Cash? _____ At Maturity? _____ or discounted at _____ %?)

Drafts.—To whose order should drafts be drawn?

Is payment to reduce Policy _____ or cancel without return premium?
(This should be agreed to with Assured when proofs are executed.)

N.—(1) Was Assured reasonable in making claim? _____
(2) Would you recommend Assured for future acceptance? _____
(3) Would you recommend Risk for future acceptance? _____
(4) If not, why? _____

192____ Adjuster.
SOUTHERN ADJUSTMENT BUREAU.

Adjuster's report, Southern States.

Appendix P. Bank Guarantee Letter

As collateral for advances made on cotton to....., we hold your policy No., issued to said, which policy provides that any loss thereunder is payable to Bank or Bankers, or other parties having made advances against said cotton, so far as their interests may appear, provided you receive notice of such interest within ten days after the loss, and in consideration of your making an advanced payment within said ten days of. Dollars (\$.....) to.....on account of cotton destroyed by fire onat the....., we hereby agree to protect you and hold you harmless from any and all claims made against you by any Bank or Bankers, or other parties claiming an interest in said cotton, by reason of said fire and said payment of.Dollars (\$) on (. . .) bales sea-island cotton, receipts for which, issued by Railroad, are attached to said draft.

Appendix Q. Warranty Certificate

This is to Certify that the Insurance Company of
under their policy No. . . . , insured . . . for the amount of \$. . . . ,
and that the said policy was in full force and effect at . . . rate of premium
when fire occurred, on the day of 19 . . . , and that the .
. Insurance Company of have accepted proof of loss and have
approved same for payment as shown by the adjustment.

The Insurance Company's portion of loss amounts to \$.

Signed

Appendix R. Subrogation and Loan Receipts; Trust Agreement

SUBROGATION RECEIPT AND ASSIGNMENT

RECEIVED of the.....
of....., the sum of
.....Dollars (\$.....).
being in full of all claims and demands for loss and damage by fire which occurred
on the. . . . day of. . . . to property insured under.....
Policy numbered. . . . issued at the..... Agency of said Company.

Now therefore, in consideration of said payment, we hereby assign, set over,
transfer, subrogate and substitute the said.....
of..... its successors and assigns, to any and all rights, claims,
interests or action which we have or ought to have against the.....

.....
who may be liable or hereafter adjudged liable for the burning or destruction of
said property, or against any person, persons or corporation, to the extent of the
said sum of and we hereby assign, transfer and
set over the same to the said
of..... or its successors or assigns as aforesaid: in accordance with
the terms of said Policy of Insurance.

We hereby expressly authorize and empower the said.....
..... to sue, compromise or settle in. . . . name or otherwise
to the extent of the money paid as aforesaid. It being understood that any action
taken by said shall be without charge or cost to
or to..... legal representative.

Dated thisday of. . . ., 195..., at.....

WITNESS

.....
.....

LOAN RECEIPT

Loss Number.....
 \$.....

Dated..... 19..

RECEIVED FROM.....
 the sum of.....
 under Policy No..... , repayable only in the event and to the extent that any net recovery is made
 by..... from any person or persons, corporation or corporations, or other parties, on account of loss by any
 casualty for which this Company may be liable, occasioned to..... property on or about..... day of
 19....

As security for such repayment, we hereby pledge to said.....
 Insurance Company whatever recovery..... may make, and deliver to it herewith all documents
 necessary to show our interest in said property and we hereby agree to promptly present claim and, if necessary, to
 commence, enter into and prosecute suit against such person or persons, corporation or corporations, through whose
 negligence the aforesaid loss was caused, or who may otherwise be responsible therefor, with all due diligence, in our
 own name, but at the expense of/and under the exclusive direction and control of the said
 Insurance Company,

In presence of

.....

AGREEMENT

TO THE..... INSURANCE COMPANY:

In connection with the loss and damage sustained by us under date of..... and for which claim has been made under your Policy Number...., by us, we hereby agree in accordance with our understanding, that we will make claim and if necessary bring action in our name against all persons or parties who may be responsible for the loss and damage sustained under date of.....

Accordingly, we agree to bring action through any attorney whom you may appoint in our name against the party or parties responsible for the loss sustained by us.

We further agree that any monies that may be recovered by us in this prospective claim or as a result of the action that may be brought by us, will be held in trust for the benefit of the..... INSURANCE COMPANY and will be repaid to the..... INSURANCE COMPANY.

It is also agreed that all fees, expenses and costs in connection with any actions that may be brought, will be borne by the..... INSURANCE COMPANY.

Appendix S. Adjusting for the Insured

The procedure of the person who adjusts for the insured is similar to the procedure of the insurer's adjuster. It includes

1. Determination of what property or other subject matter in which the insured has an insurable interest has been lost, destroyed, or damaged
 - a. When, where, how?
 - b. By what peril?
2. Determining under what insurance the loss is covered
3. Compliance with requirements in case of loss
4. Arrangements with insurer for handling of subject matter and preparation of claim
5. Preparation
6. Presentation or development of claim
7. Negotiation of agreement upon value and loss, or the determination of these by appraisal
8. Application of contract conditions
9. Completion of proof of loss and proper filing
10. Collection
11. Recommendations for rearrangement of insurance
12. In case of failure of all efforts to effect settlement, preparation for litigation

Function of the Insured's Representative. Agents, brokers, accountants, lawyers, and public adjusters are ordinarily expected to (1) guide the insured in the actions required of him by the insurance contract, or requested or demanded of him by the insurer's adjuster, (2) aid him in developing the information necessary to prepare and support a proper claim, (3) negotiate for an acceptable adjustment, and (4) suggest any rearrangement or improvement of coverage.

Very rarely does the insured authorize the representative to make an adjustment without previously receiving the insured's specific approval of the claim or of acceptance of any offer of settlement.

Qualifications. The representative, in order to function efficiently on all kinds of losses, should have

1. A comprehensive knowledge of the insurance contract
2. Knowledge of classes of property and the rights of possession or interest that are ordinarily the subject matter of insurance contracts
3. Knowledge of conditions prevailing in the locality where the loss occurred, or means of gaining such knowledge
4. Knowledge of costs, depreciation factors, and values, and connections through which he can gain any necessary special knowledge

5. Knowledge of the statutes and court decisions affecting adjusting work in the locality
6. Personnel and office equipment that will enable him to
 - a. Prepare inventories, showing costs or values of articles of personal property,
 - b. Check inventories for accuracy as to quantities or prices
 - c. Prepare statements, according to the books or accounting records, of the cost or value of property, or of business-interruption losses
7. The ability to correlate with any other information in his possession, the advice that he, or the insured, may receive from builders, architects, engineers, repairmen, cleaners, accountants, salvors, or other experts.

What the Representative Should Do. The representative may find it necessary or advisable to take any of the following steps:

1. Get the insured's story, familiarize himself with the policies, explain their coverage, limitations, and conditions to the insured, and give him pertinent advice
2. Give written notice of loss to each insurer
3. See that the insured complies with policy requirements as to the handling of the property after the loss
4. Facilitate the inspection of the property by the adjuster and make agreements with him as to its handling and preparation of claim
5. Prepare inventory, estimate, or statement of value and loss, or any account necessary to present claim, and deliver copies to the adjuster
6. Try to agree upon value and loss with the adjuster
7. Arrange for appeals from any adverse position taken by the adjuster
8. In case of hopeless disagreement as to value or loss, make arrangements for appraisal
9. When value and loss have been determined, apply any limitation clauses and, if two or more insurers are interested, apportion the loss
10. See that proof of loss is executed and filed with each insurer
11. Suggest to the insured any rearrangement of his insurance that will give better coverage
12. Follow up on collection of claim
13. If the insured has any right of recovery against a third party, advise him as to his rights and be prepared to cooperate with any lawyer retained to enforce them

Appendix T. Schedule of Insurance and Apportionment of Claim

BUREAU LOSS No. _____ SCHEDULE OF INSURANCE AND APPORTIONMENT OF CLAIM _____ DATE OF LOSS _____
INSURED AND LOCATION _____

[illegible]

Note: Space limitations have necessitated a distortion of this reproduction of the original blank, which is 22 by 8 inches in size and provides adequate writing space. The reverse side of the blank is ruled for additional notes.

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